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Volume 3

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STATE OF NEW HAMPSHIRE  
DEPARTMENT OF STATE BUREAU OF SECURITIES REGULATIONS

No. C-2011000036

In the Matter of:  
Local Government Center, Inc., et al.

BEFORE DONALD E. MITCHELL, ESQUIRE  
PRESIDING OFFICER

\* \* \* \* \*

REPORT OF PROCEEDINGS

May 2, 2012

9:32 a.m.

\* \* \* \* \*

New Hampshire State Archives and Genealogical  
Public Research Room  
71 South Fruit Street  
Concord, New Hampshire 03301

Court Reporter: Pamela J. Carle, LCR, RPR, CRR

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1                   THE PRESIDING OFFICER: Good morning,  
2 ladies and gentlemen. This is the hearing in the  
3 matter of the Local Government Center, et al.  
4 This is day three. At this time I would inquire  
5 of counsel if there are any preliminary matters  
6 that we should address before proceeding to  
7 testimony this morning? Attorney Quirk?

8                   MR. QUIRK: Good morning, Mr. Mitchell.  
9 We have had an opportunity to consult with the BSR  
10 attorneys regarding both the BSR exhibits and the  
11 respondents' exhibits.

12                   I'd like to represent for the record  
13 certain exhibits that we agree to as full  
14 exhibits, and others that we would object to at  
15 this time and ask them to simply be marked for  
16 identification purposes only.

17                   The BSR has submitted approximately 70  
18 exhibits, and we've reached agreement on the vast  
19 majority of those, so if it's okay, I'd like to  
20 reference the ones that we object to being marked  
21 as full because it's a shorter list.

22                   THE PRESIDING OFFICER: Okay.

23                   MR. QUIRK: Exhibits 1 through 9 we

1        have already addressed during the course of this  
2        hearing over the first two days. With respect to  
3        Exhibits 10 through 13, we object to those being  
4        full exhibits at this time. 17 and 18, 22 and 23,  
5        26 and 27, 36, 37, 38, 40, 41, 44, 47 through 48,  
6        52, 55 and 68.

7                    The remaining exhibits, which are the  
8        vast majority of the BSR's proposed exhibits, we  
9        agree to them coming in as full exhibits during  
10       the course of this hearing.

11                   We would like to note that certain  
12       exhibits, such as the corporate documents or  
13       Exhibit 63, LGC's actuary, Peter Riemer and his  
14       rating reports, we are not certain that is a  
15       complete set, but we don't have an objection to  
16       those exhibits coming in as full.

17                   THE PRESIDING OFFICER: Okay, and if  
18       there's a change in that circumstance between now  
19       and when Mr. Reamer testifies, you'll notify me,  
20       correct?

21                   MR. QUIRK: I will.

22                   THE PRESIDING OFFICER: Thank you very  
23       much. Do you assent that that representation is

1 correct, Mr. Tilsley?

2 MR. TILSLEY: Yes, it is.

3 THE PRESIDING OFFICER: Do you have  
4 anything to say?

5 MR. TILSLEY: Two things. No. 1, we  
6 have -- on Monday had prepared a list of which  
7 exhibits of the LGC's which we object to. We've  
8 resolved some issues last night on meeting  
9 minutes, so all of their meeting minutes can come  
10 in as replaced today.

11 With that, the remaining exhibits that  
12 we object to are LGC 234, 235, conditional  
13 objection on 262 through 272, which are expert  
14 reports. Our position, as long as it works for  
15 both sides, as long as the expert appears and  
16 testifies, we will not object to their reports  
17 coming in, assuming that our experts are allowed  
18 the same leeway to have their reports submitted as  
19 long as they come and testify.

20 THE PRESIDING OFFICER: Okay.

21 MR. TILSLEY: The remaining exhibits  
22 that we object to, 307 to 333, 335 through 343,  
23 356, 366.

1 MR. GORDON: 366?

2 MR. TILSLEY: 366, Steve. 367, 374,  
3 384. 407, 408, 410, 427 to 430, 438 to 440. 447  
4 to 449, and 451 to 455. And that's it.  
5 Everything else of their 456 can be marked as full  
6 exhibits.

7 THE PRESIDING OFFICER: Thank you very  
8 much.

9 MR. TILSLEY: The other issue I just  
10 wanted to remind the hearings officer, we're still  
11 awaiting a response to our stipulation of facts  
12 from the LGC so that we can get that submitted to  
13 you as well.

14 THE PRESIDING OFFICER: Any further on  
15 exhibits? Okay, then I will comment for the  
16 record that Exhibit LGC 272 is not admitted at  
17 this point in the proceedings. Any other  
18 preliminary matters? Mr. Volinsky?

19 MR. VOLINSKY: There was an issue  
20 yesterday about meeting minutes reviewed by  
21 Mr. Coutu and whether they were previously  
22 produced. We've addressed that. We've provided  
23 the deposition from Mr. Coutu's ten-hour

1 deposition that included the meeting minutes to  
2 Mr. Gordon.

3 THE PRESIDING OFFICER: Thank you.  
4 Mr. Gordon?

5 MR. GORDON: And what I understand --

6 THE PRESIDING OFFICER: Excuse me, come  
7 forward, first. Mr. Gordon.

8 MR. GORDON: What I'd like to do is,  
9 for the record, then, to set forth the meeting  
10 minutes that have been highlighted. And these  
11 meeting minutes indicate by the cover sheet that  
12 they were -- if I get this right -- sent from  
13 Mr. Volinsky to Mr. Coutu on February 11th, 2012,  
14 and there were three sets of minutes.

15 First set were meeting minutes of  
16 November 25, 2002. Second set was minutes of July  
17 10, 2008. Minute meetings November 19, 2010, and  
18 all of these were sent to Mr. Coutu on February  
19 11th, 2012.

20 THE PRESIDING OFFICER: Thank you.  
21 Those have not been offered for admission,  
22 correct, at this time?

23 MR. VOLINSKY: No, this -- they may

1           actually be in the pile.

2                       THE PRESIDING OFFICER:   That's -- you  
3           guessed where I was going, Mr. Volinsky.  So I may  
4           see them already marked with a number later today?

5                       MR. VOLINSKY:  I think that's likely.

6                       THE PRESIDING OFFICER:  All right, very  
7           good.  If someone might be so kind if they were to  
8           come -- be submitted, to point out to me that it's  
9           one of the three sets -- in fact, Mr. Gordon, that  
10          will give you something to watch today.

11                      MR. GORDON:  I'd be delighted to.  I  
12          needed a task.

13                      THE PRESIDING OFFICER:  Thank you very  
14          much.

15                      MR. GORDON:  I always like to be  
16          useful.

17                      THE PRESIDING OFFICER:  There being no  
18          other preliminary matters, Counsel, are you  
19          prepared for this witness?

20                      MR. VOLINSKY:  I am.

21                      THE PRESIDING OFFICER:  Okay.  Let me  
22          swear him in, please.  Good morning, Andrews.  
23          Raise your right hand.  You can remain seated.

1 (John Andrews, sworn.)

2 THE PRESIDING OFFICER: Would you  
3 please for the record give the town of your  
4 residence.

5 THE WITNESS: Concord, New Hampshire.

6 THE PRESIDING OFFICER: Very good,  
7 thank you. Mr. Volinsky.

8 MR. VOLINSKY: Thank you.

9 DIRECT EXAMINATION

10 BY MR. VOLINSKY:

11 Q. Good morning, Mr. Andrews.

12 Mr. Andrews, you were previously a respondent  
13 individually named in this matter, correct?

14 A. Yes.

15 Q. And for almost 34 years you were the  
16 executive director of the Local Government Center  
17 or its predecessor?

18 A. Yes.

19 Q. You retired in September of 2009,  
20 right?

21 A. Yes.

22 Q. Let's, just to make some of the  
23 questioning easier, let's use 2003 as a point of

1 demarcation. That was the year, was it not, that  
2 the preceding entities reorganized into the Local  
3 Government Center, is that right?

4 A. Yes.

5 Q. Okay. So prior to the reorganization  
6 in '03, there were not-for-profit corporations  
7 that essentially housed individual lines of  
8 insurance, were there not?

9 A. Yes.

10 Q. So there was a HealthTrust corporation  
11 that housed medical and dental type benefit  
12 insurance programs, correct?

13 A. Yes.

14 Q. And that nonprofit corporation had its  
15 own governing board, did it not?

16 A. Yes.

17 Q. And that governing board set policy for  
18 HealthTrust, did it not?

19 A. Yes.

20 Q. It controlled, through supervising  
21 staff, the expenditure of HealthTrust's money?

22 A. Yes.

23 Q. Again through staff it controlled

1 hiring and firing?

2 A. I -- I'm not sure if I understand that  
3 question.

4 Q. Okay, I'll rephrase. When -- let's  
5 just limit it to senior executives. When senior  
6 executives of HealthTrust, prior to the  
7 reorganization, were hired or fired, the  
8 HealthTrust's specific board was consulted about  
9 that, correct?

10 A. Not -- the authority to hire and fire  
11 and supervise was delegated to me.

12 Q. That's probably a better word.

13 A. Yeah.

14 Q. By delegated authority --

15 A. Yes.

16 Q. -- you had --

17 A. Yes.

18 Q. -- control over hiring and firing?

19 A. Yes. I mean, the only people that --  
20 that they might get involved in the hiring of would  
21 be the trust manager, you know, but that person  
22 reported to me, and, you know, ultimate hiring  
23 decision was mine. But, you know, we involved the

1 trustees, you know, in the interview process.

2 Q. Understood. Understood. If  
3 HealthTrust was to take on a new line of coverage,  
4 perhaps going from an indemnity to an HMO model,  
5 would the then existing HealthTrust board members  
6 make that kind of a decision?

7 A. Yes.

8 Q. I know that sometimes the predecessor  
9 organization had workers' comp. and sometime  
10 during your career it did not, but let's talk  
11 about right before the '03 reorganization. There  
12 was a workers' comp. nonprofit corporation as part  
13 of the affiliated entities?

14 A. Yes.

15 Q. And that organization similarly had its  
16 own board managing its operations?

17 A. I don't recall. To be honest, I don't  
18 recall if there was a separate board. It may have  
19 been the Property and Liability board --

20 Q. Okay.

21 A. -- that oversaw that.

22 Q. Could you just keep your voice up just  
23 a tad.

1           A.       I'll try.

2           Q.       All right, let me go to Property and  
3           Liability. Prior to the reorganization, Property  
4           and Liability was a nonprofit New Hampshire  
5           corporation, correct?

6           A.       Yes.

7           Q.       And it had its own board?

8           A.       Yes.

9           Q.       And similar to the questions I asked  
10          you about HealthTrust, that board supervised,  
11          either directly or through delegation to you, the  
12          operations of Property and Liability?

13          A.       Yes.

14          Q.       And accepting that whether we can't  
15          remember whether there was a separate workers'  
16          comp. board corporation or not, if it wasn't  
17          separate, it was part of Property and Liability?

18          A.       Yes.

19          Q.       And it fell under the board for  
20          Property and Liability?

21          A.       Yes.

22          Q.       This structure of two or three  
23          New Hampshire nonprofit corporations housed what I

1 would call the insurance activities of the  
2 enterprise, is that a fair statement?

3 A. Yes.

4 Q. And then separate from these two or  
5 three entities there was NHMA, right?

6 A. Yes.

7 Q. And that was an affiliate?

8 A. Excuse me?

9 Q. That was an affiliate of the insurance  
10 oriented New Hampshire corps?

11 A. No, I guess it would be better phrased  
12 the other way around, the insurance operations were  
13 an affiliate of NHMA --

14 Q. I'll accept that.

15 A. -- and NHMA administered the insurance  
16 programs.

17 Q. I'll accept that. So the insurance  
18 companies were affiliates of NHMA.

19 A. Yes.

20 Q. As you think about it.

21 A. Yes.

22 Q. And NHMA provided lobbying and  
23 legislative relations services, right?

1           A.       Yes.

2           Q.       It provided legal advice to  
3 municipalities?

4           A.       Yes.

5           Q.       Correct? It provided training around  
6 legal issues for municipalities?

7           A.       Yes.

8           Q.       Was NHMA where the subgroups specific  
9 to, like, town managers was organized?

10          A.       Yes.

11          Q.       So there were a number of subgroups  
12 that NHMA organized where they would bring  
13 together town managers who were insuring through  
14 the pools for various interests that were common  
15 to town managers?

16          A.       Yes, but NHMA didn't organize all of  
17 those entities. Most of them existed, you know,  
18 on -- existed independently and on their own from  
19 NHMA.

20                   For example, the Town and City Clerks  
21 Association, assessors, you know, police chiefs, a  
22 whole variety of organizations. There were some  
23 that we -- that we did, you know, participate in

1 organizing, like the welfare administrators and IT  
2 people, that kind of people. Those were some of  
3 the professional organizations that advanced their,  
4 you know, professionalism and concerns, training  
5 and that.

6 Q. Understand. And was the town manager,  
7 town administrator organization one of the ones  
8 that NHMA organized?

9 A. No.

10 Q. That was preexisting?

11 A. Yes.

12 Q. It was just -- I would call it  
13 administratively attached and supported?

14 A. Yes, they were affiliates, if you will.  
15 You know, we did things like, you know, provided  
16 the space in which they met for their meetings.  
17 You know, we would, you know, order lunch for them,  
18 and then we'd bill them for, you know, to repay us  
19 for that.

20 You know, we'd send out notices of  
21 meetings for them, staffed them, essentially. And  
22 we did that for a number of those organizations.

23 Q. Understood. Thank you. The towns and

1 cities and school districts that wanted to buy  
2 insurance through one of those nonprofit  
3 corporations, they also had to belong to NHMA to  
4 participate in the insurance programs, correct?

5 A. Yes.

6 Q. And NHMA charged dues to those members?

7 A. Yes.

8 Q. And those dues were in addition to  
9 whatever premiums were charged for the various  
10 insurances that they accepted?

11 A. Yes.

12 Q. Is it fair to say that during your  
13 leadership as executive director, the NHMA group  
14 of corporations and the NHMA grew to become one of  
15 the most influential enterprises about municipal  
16 governments in the state of New Hampshire?

17 A. Yes, I think mainly because we were the  
18 only organization of municipal governments in  
19 New Hampshire.

20 Q. Okay.

21 A. I mean, there was a school board  
22 association composed of school districts, and there  
23 was a county association composed of counties, but

1 we were the only municipal association.

2 Q. Okay. Sometimes when the NHMA lobbied,  
3 it lobbied for the interests of the municipalities  
4 in the state, for example, on common issues as to  
5 how the state wanted property assessing approached  
6 by municipalities, is that right?

7 A. Yes.

8 Q. And sometimes when NHMA lobbied, it  
9 lobbied in its own interest, suggesting  
10 legislation or opposing legislation that might  
11 directly affect its operations or the operations  
12 of its risk pools, correct?

13 A. Yes.

14 Q. One of the legislative activities of  
15 the NHMA was in 1987 when RSA 5-B was adopted,  
16 right?

17 A. Yes.

18 Q. Essentially, you wrote the language  
19 that became RSA 5-B?

20 A. Yes.

21 Q. And the legislators considered it and  
22 adopted it?

23 A. Yes.

1           Q.       And when you wrote it, you were writing  
2           it to describe the then existing risk pooling  
3           practices in the NHMA affiliates, right?

4           A.       Well, I think the legislation affirmed  
5           what existed at the time.

6           Q.       I'll accept that.

7           A.       But it also contemplated that things  
8           could change, too, because it provided, for  
9           example, annual filings of bylaws and lists of  
10          officers and operating agreements and stuff,  
11          because we knew that down the road things could  
12          change.

13          Q.       Understand. When the 1987 legislation  
14          was drafted by you and then adopted by the  
15          legislature, HealthTrust, for example, was in the  
16          practice of returning surplus each year that  
17          surplus existed in the program, did it not?

18          A.       No, we didn't return surplus each year.  
19          My recollection is there was only one time that we  
20          returned surplus from HealthTrust.

21          Q.       And is it your testimony that surplus  
22          existed at other times and was not returned?

23          A.       It existed other times, and at other

1 times it wasn't returned, and then later on in 2007  
2 or '08 or thereabouts we took surplus and applied  
3 it towards rates, rate credits.

4 Q. Okay, but I'm still talking about  
5 pre-'03.

6 A. Right. No, there wasn't any other  
7 times when we returned surplus, even though there  
8 may have been.

9 Q. Was it not -- I'm sorry, if you're not  
10 finished, go ahead.

11 A. Well, I don't know that -- you know,  
12 the program started in 1985, and it evolved, and,  
13 you know, I don't even -- I'm not sure if we  
14 characterized it as surplus, you know, just we  
15 accrued money in some years, we lost money, in some  
16 years we made money. I don't -- I'm not sure what  
17 we call it. We called it members' balance.

18 Q. Okay.

19 A. You know, understanding that it  
20 would -- you know, eventually it would all -- all  
21 belonged to the members. If it were ever to  
22 dissolve, it would all go back to the members.

23 Q. So members' balance belonged to

1 members, right? And these organizations, the  
2 pre-reorganization organizations had bylaws,  
3 right?

4 A. Yes.

5 Q. So HealthTrust had a set of bylaws, PLT  
6 had a set of bylaws, right?

7 A. Yes.

8 Q. And over times bylaws for the various  
9 organizations were amended?

10 A. Yes.

11 Q. And didn't the earlier bylaws, shortly  
12 after '87, maybe '87 to early '90s, provide for  
13 return of surplus to members in terms of dividend  
14 payments? Do you remember that?

15 A. I don't remember exactly what was in  
16 those bylaws, but that may have been the case.

17 Q. And that the process was set up so that  
18 annually, if there were dividends, they were  
19 returned to members without the members having to  
20 request it, do you remember that?

21 A. Yup.

22 Q. And then over time the bylaws were  
23 amended so that instead of the dividends being

1 returned, they were instead applied to crediting  
2 of rates, unless the member specifically asked for  
3 it to be returned. Do you remember that change?

4 A. I don't -- I don't remember it, but  
5 it -- that may well have -- that may well have been  
6 in the bylaws.

7 Q. Okay.

8 A. But even returning by rate credits is a  
9 return on the money.

10 Q. I understand.

11 A. We took advantage of that.

12 MR. GORDON: I didn't hear that.

13 THE PRESIDING OFFICER: I didn't  
14 either. Could you repeat your answer?

15 THE WITNESS: Yeah, even by returning  
16 by rate credits it's the same as returning it, you  
17 know, in a check. They get the advantage of that,  
18 the benefit of that.

19 BY MR. VOLINSKY:

20 Q. So if I am a member of the municipality  
21 and I get a check, I know the amount of the check,  
22 right?

23 A. Yes.

1           Q.       And I know that it is issued to me at  
2 whatever time it's issued, and it's my municipal  
3 money when the check's written, right?

4           A.       Yes.

5           Q.       Okay. Rate crediting, as your  
6 organization does it, doesn't result in a specific  
7 amount being conveyed to the member, it's a  
8 projection that your rate will be go down by 2  
9 percent, right?

10          A.       Yes, it -- in health rate credits were  
11 applied for the -- for the general rate-making  
12 process.

13          Q.       Right.

14          A.       You know, there was an impact on your  
15 rates. And given the cost of health insurance, it  
16 was more likely -- reduce the amount of the  
17 increase, if you will. You know --

18          Q.       Yup.

19          A.       -- it's expensive stuff no matter what  
20 you do.

21          Q.       While we're talking about rate  
22 crediting, let's focus on health, just so it makes  
23 it easier that we're understanding each other.

1           A.       Okay, yeah.

2           Q.       And unlike getting a dividend check,  
3 rate crediting isn't done in a single year by --  
4 or wasn't done in a single year by HealthTrust, it  
5 was done over a period of years, right?

6           A.       Yes.

7           Q.       And if the board of HealthTrust wanted  
8 to change its rate credit amount, the amount of a  
9 rate reduction, it could change that each year,  
10 right?

11          A.       Yes.

12          Q.       One of the things about setting rates  
13 in a health insurance type company is rates are  
14 set with the assistance of an actuary, right?

15          A.       Yes.

16          Q.       In your case, the actuary -- was it  
17 your entire career at NHMA Peter Riemer, or just  
18 26 years?

19          A.       I think Peter Riemer was the actuary,  
20 as best as I can recall, from the beginning of our  
21 health program. From the beginning of when we  
22 hired an actuary.

23          Q.       And you said health began in '85?

1           A.       Yes.  But I don't know specifically  
2           but -- when Peter Riemer came into the picture, but  
3           I'm going to -- you know, I'm going to surmise it  
4           was probably '86 or '87.

5                     But the first year or two, couple of  
6           years, Blue Cross/Blue Shield actually did that for  
7           us.  I mean, they -- they developed the rate, and  
8           they said this is what you should charge.

9           Q.       Okay.

10          A.       So it might have been '87 or '88 when  
11          Peter Riemer started.

12          Q.       Let's talk about when Riemer's in  
13          place.  The process that Mr. Riemer uses -- well,  
14          you're gone now -- he used while you were there --

15          A.       Excuse me?

16          Q.       The process that Mr. Reamer used to  
17          recommend rates while you were there was that he  
18          would develop a rating sheet with ten or 12  
19          components, and each of those components were  
20          calculated to result in an ultimate overall rate,  
21          and then that was spread out through the various  
22          pools?

23          A.       Yes.

1 Q. Is that right?

2 A. Yes.

3 Q. And each of those rates had different  
4 percentage contributions to the ultimate premium  
5 calculation, right?

6 A. Yes.

7 Q. And sometimes those independent factors  
8 changed year to year?

9 A. Yes.

10 Q. Most times?

11 A. Yes.

12 Q. Some of that was dependent upon the  
13 cost of medical care in our state community?

14 A. Yes, medical trend rates.

15 Q. Right. So medical trend rates is like  
16 an inflation factor from medical costs?

17 A. Yes.

18 Q. And HealthTrust did not control the  
19 medical trend rate?

20 A. No.

21 Q. It analyzed it and then incorporated  
22 it?

23 A. In some of the discussions, the board

1 discussions, you know, Peter was recommending, say,  
2 a 14.9 percent medical trend rate. There was --  
3 there was a fair amount of discussions sometimes  
4 about that, and -- you know, and in the desire, you  
5 know, to reduce the amount of increase and to hold  
6 cost down for members, the board would say, you  
7 know, how firm is this, and, you know, is there any  
8 wiggle room here, can we reduce it.

9 And, you know, Peter might say, well,  
10 14.5, you might be able to -- you know, you could  
11 go to 14 and I'd be comfortable with that. So  
12 there was a little bit of, you know, flexibility  
13 there, but not much, because, you know, that was  
14 what it was. That was the medical trend.

15 Q. There was another factor that Riemer  
16 labeled risk, do you remember that?

17 A. Yes.

18 Q. And risk was essentially the  
19 enterprise's profit and loss projector?

20 A. Well, I don't think they characterize  
21 it as profit and loss. It was a factor, a  
22 percentage that was built into the rates to take  
23 into account, you know, any unforeseen

1       circumstances or, you know -- or -- you know,  
2       surprises, or, you know, things changing  
3       dramatically in the health field. But it was to  
4       create a -- you know, a surplus that you could rely  
5       on in an emergency. The risk charge.

6           Q.       Right. I was intending to get to this  
7       later, but let me ask you now. When the LGC  
8       enterprise after the reorganization decided to  
9       essentially double its member balance, it  
10      accomplished that by increasing that risk factor  
11      charge, did it not?

12          A.       Well, a lot of -- several things went  
13      into whatever accrued as the members' balance. One  
14      was that, you know, amount of risk charge. The  
15      other was if you had a good year, frequency of  
16      claims were down -- and that was, you know, a big  
17      factor -- you know, and so some years, you know,  
18      you might have a -- have a \$7 million loss, and  
19      other years you might have a \$7 million, you know,  
20      surplus.

21                    There were -- I remember, you know,  
22      meetings at which everybody, including Peter  
23      Riemer, sat around and scratched their head and

1       said, you know, wow, it was a good year, we're  
2       \$4 million in surplus. You know, it was --

3             Q.       But that --

4             A.       But there were other factors that went  
5       into that -- you know, that increase in the  
6       members' balance other than just the risk.

7             Q.       Right. Those other factors your board  
8       did not control whether claims were higher --

9             A.       No.

10            Q.       -- let me just finish the question --  
11       higher or lower than expected, that just happened,  
12       right?

13            A.       Well, yeah -- yes, it just happened. I  
14       mean, there were -- but there were influences on  
15       that that we did have some control over like  
16       wellness programs loss prevention programs.

17            Q.       Sure. But did it control --

18            A.       But as far as a boards taking a vote  
19       and saying that, no, they didn't have any control  
20       over those kind of.

21            Q.       Right. But they did have specific  
22       control over the amount set as the risk factor?

23            A.       Yes.

1           Q.       And as part of that factor, they  
2 specifically at times moved the risk factor double  
3 so that the premiums would result in extra money  
4 to build the member balance, right?

5           A.       I -- I don't recall whether they  
6 doubled it, but if the facts were that, then, you  
7 know, whatever changes were, and it was the risk  
8 factor that they also reduced to apply rate credits  
9 back. That was -- that was the one area that the  
10 actuary said he'd feel comfortable in, you know,  
11 applying return of surplus through reducing the  
12 risk factor.

13          Q.       And coming back full circle to the rate  
14 credit issue, isn't one of the problems with using  
15 rate credit is that all of these factors that go  
16 into building the premium change from year to  
17 year, and if you don't have a constant set of  
18 calculations when you announce a rate credit, it  
19 may actually be offset by one of the calculations  
20 being higher than in the prior year, isn't that  
21 right?

22          A.       Yes.

23          Q.       So that --

1           A.       By factors that weren't in the board's  
2 control.

3           Q.       Whether they were in or out.

4           A.       Yeah.

5           Q.       So the problem -- or let me withdraw  
6 that. So the issue with rate credits is you're  
7 not crediting against a constant, you're saying,  
8 in effect, to your member municipalities, we will  
9 reduce your rates 2 percent, 3 percent in future  
10 years, but because the calculation of the  
11 underlying premium rate isn't a constant, that 2  
12 or 3 percent may actually not be real?

13          A.       It would have been -- it might have  
14 been offset by the medical trend.

15          Q.       Right. All right. So let's go back  
16 to --

17                   THE PRESIDING OFFICER: Excuse me,  
18 Mr. Volinsky. Was that last word, Mr. Andrews,  
19 training, medical training?

20                   THE WITNESS: Trend.

21                   MR. VOLINSKY: Trend.

22                   THE WITNESS: Might be offset by the  
23 medical trend.

1 MR. VOLINSKY: T-R-E-N-D.

2 BY MR. VOLINSKY:

3 Q. If you speak loud enough so I can hear  
4 you over here, everybody in between should be  
5 okay.

6 A. I'll try. I'm a soft-spoken guy.

7 Q. All right. I want to ask you, you've  
8 worked in this area for three decades. It's true,  
9 is it not, that in the health insurance field size  
10 matters?

11 A. Yes.

12 Q. There is something called --

13 A. In all -- by the way, in all insurance  
14 fields size matters.

15 Q. Okay, I'll accept that. But I really  
16 want to focus on health. Size matters because of  
17 something called the law of big numbers?

18 A. Correct.

19 Q. And what that means is it plays out in  
20 a couple of ways. So in order to have a health  
21 insurer, you have to have certain component parts  
22 of your organization, regardless of how many  
23 members you insure, how many lives you insure, you

1       need an actuary, you need some marketing, you need  
2       processing, et cetera. And whether you have a  
3       hundred people insured or a thousand people, you  
4       need each of those components, right?

5             A.       Yes.

6             Q.       And so when we say size matters, the  
7       more lives you have insured, it's a greater  
8       population over which you can spread that cost?

9             A.       Yes.

10            Q.       So in some ways, the larger you are,  
11       the easier it is to spread costs?

12            A.       Yes.

13            Q.       And incrementally, each insured pays  
14       less because there's a larger group, right?

15            A.       Yes. It's called the law of large  
16       numbers, and -- and, you know, as I said in my  
17       deposition, if everybody in the country was in one  
18       plan, costs would be lower, and, you know, the  
19       healthy people would be paying in to cover the  
20       unhealthy people.

21            Q.       Right. Well, the second comment you  
22       made alludes to the second reason why size matters  
23       and the law of large numbers applies, and that is

1 health insurance -- all insurances, but let's  
2 focus on health -- is a predictive business, in  
3 that you take in a sum of money, and you're  
4 predicting claims over a future period of time  
5 that need to be paid with that sum of money,  
6 right?

7 A. Yes.

8 Q. And so where you have only a small  
9 number of lives insured, if you have an  
10 aberrational medical situation with a small  
11 number, it has a big impact on the costs you may  
12 have to pay, correct?

13 A. Yes. Yes.

14 Q. But the more lives you have insured,  
15 the easier it is to better predict because a  
16 single aberration means less, given the larger  
17 number?

18 A. Yes.

19 Q. And you also have more data, more  
20 people, you know more about their health, you can  
21 better predict what's going to happen with their  
22 medical costs as you go forward, right?

23 A. Yes.

1           Q.       In the timeframe probably since the  
2 reorganization, the HealthTrust program at the  
3 Local Government Center was the largest health  
4 trust risk pool in the nation?

5           A.       I'm not necessarily sure that it was  
6 the largest. I think there were, you know,  
7 programs maybe -- maybe Texas was larger, you know,  
8 CalPERS in California, but we were one of the  
9 largest, yes.

10          Q.       And you would agree with me that  
11 New Hampshire is a whole lot smaller than Texas  
12 and California?

13          A.       Yes. Our prices were very competitive.

14          Q.       And you wound up in health insurance  
15 insuring 85 percent of the municipalities and  
16 school districts in the state?

17          A.       That's probably pretty close to  
18 accurate, yeah.

19          Q.       And because size matters and you  
20 achieved a large size, it made it easier for the  
21 organization to predict and protect against  
22 unexpected bumps in the road, didn't it?

23          A.       Yes, it made it easier, but it --

1 that -- it still wasn't actually borne out in fact.  
2 If you look at in years of losses and -- you know,  
3 and -- and accretions, you know, for the -- you  
4 know, to the members' balance.

5 As I said, some years we might lose  
6 \$7 million, and other years we might make  
7 \$7 million, and, you know, it varied. I remember  
8 we had a pretty good time when we lost tons of  
9 money, we were hemorrhaging, you know, red ink,  
10 even though we were a large program.

11 Q. We have a chart that we've used as  
12 Exhibit 1 with the prior witness. If you use your  
13 \$7 million example, in '09, which was your last  
14 year there, you had about \$360 million in  
15 premiums.

16 A. Okay.

17 Q. We've already established that; I'll  
18 ask you to accept that. In '02 you had less than  
19 200 million, the blue line, correct?

20 A. Yup.

21 Q. So if you lost 7 million in each of  
22 those years, we're talking about a different scale  
23 of loss, right?

1           A.       Yes.

2           Q.       And so if member balance or capital or  
3 surplus is thought of as a shock absorber  
4 proportionately, you need less of a shock absorber  
5 as the large size -- the law of large numbers  
6 starts to take effect with your health  
7 organization, right?

8           A.       Yes.

9           Q.       Thank you. Did you as the executive  
10 director, either before '03 or after the  
11 reorganization, recommend steps taken by  
12 HealthTrust to reduce the ability of members to  
13 leave HealthTrust and go to a competitive  
14 insurance program?

15          A.       Yes. I'm not sure, you know, when  
16 that, you know, was implemented, but, yeah, there  
17 was -- well, there was a -- what we called a  
18 two-year lockout. So that if a member, you know,  
19 wanted to leave, they had to stay out for two  
20 years, and then they could come back in.

21          Q.       That's one method, right?

22          A.       Excuse me?

23          Q.       That was one method?

1           A.           That was -- that was one method. That  
2 was -- that was the only method I can think of.

3           Q.           Let me suggest another one. Didn't you  
4 negotiate an exclusive arrangement with Anthem so  
5 that municipalities could not directly insure with  
6 Anthem, and the only way to get Blue Cross  
7 coverage as a municipality was to go through the  
8 Local Government Center?

9           A.           I think that was in our contract with  
10 Anthem; you know, Anthem acquiesced to that. They  
11 made a corporate decision, I guess, to offer health  
12 programs to local governments through us.

13                       And I think at the time that that was  
14 negotiated, the understanding was that any -- any  
15 current member that was with Anthem, you know,  
16 could stay with Anthem, and, you know, and some  
17 did. There were a few usually very large places  
18 like Manchester and Nashua stayed with Anthem.

19           Q.           Right. And you've never had Manchester  
20 in a risk pool?

21           A.           No. We had proposed to them a number  
22 of times. In fact, we -- both Manchester and  
23 Nashua, we made proposals in some years that would

1 have saved them money.

2 Q. I understand you believe that.

3 A. Excuse me?

4 Q. They didn't agree?

5 A. Well, in the case of Manchester, I  
6 think there was -- they sort of had a -- the  
7 situation sort of played out kind of like what's  
8 recently going on there. They had our proposals,  
9 and then they had Anthem proposals, and Anthem had  
10 an opportunity to make another -- make another  
11 proposal.

12 Q. Okay.

13 A. You know, that's the way I guess they  
14 did business, Manchester.

15 Q. I understand. If Manchester had joined  
16 you, and therefore stopped insuring directly  
17 through Anthem Blue Cross, they would have  
18 thereafter become subject to the exclusivity  
19 agreement that you had negotiated with Anthem Blue  
20 Cross?

21 A. Yes. And the two-year lockout, too.

22 Q. And the two-year lockout.

23 A. And there's a reason for the two-year

1       lockout.

2               Q.       We'll maybe get to that.   But there is  
3       a two-year lockout?

4               A.       Yeah.

5               Q.       There's one other.   When you were in  
6       position at the Local Government Center, you would  
7       from time to time talk with town and city managers  
8       who were involved in labor negotiations, did you  
9       not?

10              A.       Yes.

11              Q.       I mean, you'd been around for 30 --

12              A.       Excuse me?

13              Q.       You had been around for 30 years.   I'm  
14       not suggesting there's anything wrong with your  
15       being consulted.

16              A.       Yeah.

17              Q.       But you were consulted?

18              A.       I wasn't consulted about specific labor  
19       negotiations.   I was -- you know, came up at  
20       meetings and, you know, general conversations  
21       about, you know, we're in negotiations with our  
22       unions and that.

23              Q.       I understand.

1           A.       But I don't recall that they came to me  
2 and said, John, the union has proposed this, what  
3 do you think we ought to do.

4           Q.       Would it be more accurate then to say  
5 that at the Local Government Center these  
6 discussions happened from time to time, you may  
7 have been present, you may have been consulted,  
8 you may have participated?

9           A.       I may have.

10          Q.       Okay.  And when these discussions  
11 occurred at the premises or in the meetings of the  
12 Local Government Center, was there an effort by  
13 the Local Government Center to encourage town  
14 managers who were negotiating collective  
15 bargaining agreements to get into the terms of  
16 those agreements that the medical care should be  
17 provided through various Blue Cross plans?

18          A.       I don't recall that.  Because as an  
19 artifact, if you will, of the historical  
20 relationship the Blues -- the Blues had with  
21 communities, an awful lot of their collective  
22 bargaining agreements, both the communities and  
23 school districts, specified specifically the Blue

1 Cross/Blue Shield, you know, indemnity plans. And,  
2 in fact, that was a -- you know, and that wasn't  
3 something that we, you know, encouraged or -- or  
4 that.

5 We -- in fact, most of those kinds of  
6 clauses specifying Blue Cross/Blue Shield by name  
7 and usually the indemnity by name, existed prior to  
8 the HealthTrust being formed in 1985.

9 They -- in fact, that was a tremendous  
10 source of frustration, I think, for, you know,  
11 SchoolCare and Primex and, probably, you know, any  
12 other carriers that were, you know, trying to sell  
13 the plan to a community, is that they faced those  
14 problems of the union contracts. And usually  
15 teachers and uniformed services, primarily.

16 Q. Since you've mentioned them in the  
17 answer, let's just get clear. SchoolCare and  
18 Primex are other New Hampshire risk pools?

19 A. Yes.

20 Q. And at times they're more or less  
21 competitive with the Local Government Center?

22 A. Yes.

23 Q. Just to make the record clear. Whether

1       it's as an artifact or as a suggestion by members  
2       of your staff, when collective bargaining  
3       agreements specified particular Blue Cross plans,  
4       what that meant after you negotiated the specific  
5       exclusivity provision with Anthem, that meant that  
6       that town or school district had to insure for  
7       health through Local Government Center because  
8       that's the only way to accomplish the Blue Cross  
9       plan for the uniformed officers or the teachers,  
10      right?

11           A.       I guess I never thought of it that way,  
12      but if that would have that effect, yeah.

13           Q.       And you know from your work in  
14      municipalities that collective bargaining  
15      agreements are usually multiyear agreements?

16           A.       About what?

17           Q.       Collective bargaining agreements are  
18      usually multiyear agreements?

19           A.       Yes.

20           Q.       And in New Hampshire, at least through  
21      now, they still contain what are called Evergreen  
22      clauses often?

23           A.       Didn't the legislature eliminate those?

1 Q. Might have.

2 A. I don't know.

3 Q. Putting aside that it may have recently  
4 been eliminated, while you were at LGC, Evergreen  
5 clauses existed?

6 A. Yes.

7 Q. And what that meant is that the  
8 collective bargaining agreement negotiated  
9 remained in place until there was a new one --

10 A. Yes.

11 Q. -- negotiated?

12 A. Yes.

13 Q. And so if I were in a town that had a  
14 collective bargaining agreement that specified  
15 Blue Cross, and let's assume the collective  
16 bargaining agreement was for three years, because  
17 of that agreement, I as the town do not leave the  
18 Local Government Center as my healthcare provider,  
19 correct?

20 A. No, they could leave us as the  
21 healthcare provider and go with somebody else.

22 Q. They could or could not?

23 A. They could.

1           Q.       But if they have a collective  
2 bargaining agreement that specified a Blue Cross  
3 product, they would have to change the agreement  
4 or violate it?

5           A.       Yeah, the employees would have to  
6 consent to change the agreement to go somewhere  
7 else, and I know that -- you know, I mean, I can't  
8 specify an instance when it happened because I just  
9 don't recall, but I'm sure that it did happen.

10                    But keeping Blue Cross/Blue Shield  
11 was -- was, you know, a major -- a major goal of --  
12 of, you know, unions in the collective bargaining  
13 discussions. It's them who didn't want to change  
14 carriers.

15                    The -- you know, I remember some  
16 community out in the seacoast, it may have been  
17 Portsmouth -- and this was in the newspaper --  
18 where the woman who was president of the local  
19 union, they negotiated, you know, a new contract,  
20 and she was quoted in the paper as saying at least  
21 we didn't have to go with SchoolCare.

22           Q.       Okay.

23           A.       I mean, that was a -- it was more from

1 the employees' perspective is we didn't want to  
2 change.

3 Q. I'm not suggesting there's anything  
4 good or bad about wanting Blue Cross.

5 A. The employers wanted to change because  
6 they thought they might get it cheaper somewhere  
7 else.

8 Q. But my point is that you understood  
9 this phenomenon that as an artifact, as you called  
10 it, employees were tied to Blue Cross?

11 A. Yes.

12 Q. Or interested in Blue Cross, right?

13 A. Yes.

14 Q. And that, in part, motivated why you  
15 negotiated the exclusivity provision with Blue  
16 Cross, so that once that artifact was in place, if  
17 an employee group insisted on Blue Cross, their  
18 health insurance had to come through Local  
19 Government Center, right?

20 A. Yes.

21 Q. So when we say or we hear in this  
22 hearing that if towns and cities don't like the  
23 Local Government Center they could just leave,

1       because of some of the things you negotiated, that  
2       assertion is actually not true. They can't just  
3       leave when their employees want Blue Cross and  
4       it's in the collective bargaining agreements,  
5       right?

6           A.       With those who had collective  
7       bargaining agreements, I guess they had that  
8       problem. Those without the collective bargaining  
9       agreements, they -- they weren't restrained.

10          Q.       But they had the two-year lockout to  
11       worry about, didn't they?

12          A.       Yeah, there's a reason for the two-year  
13       lockout.

14          Q.       Okay. There was also --

15          A.       That was --

16          Q.       There's no question pending.

17                    THE PRESIDING OFFICER: Let him finish  
18       his answer, please.

19       BY MR. VOLINSKY:

20          Q.       Okay, go ahead.

21          A.       There was a reason for the two-year  
22       lockout, which wasn't -- which wasn't for the  
23       purposes of -- of punishing, it was actually to

1 protect the entire membership of the trust.

2 Q. If a member left and there was  
3 surplus -- so we're in a plan year, surplus to be  
4 distributed the following plan year. If the  
5 member left, the member didn't get the next year's  
6 surplus, did they?

7 A. Right, because surplus was distributed  
8 to members, and they weren't a member.

9 Q. Right. So they wouldn't be able to --

10 A. No.

11 Q. -- get it, correct?

12 A. That's correct.

13 Q. That's another reason that slows down  
14 free movement, isn't it?

15 A. Yeah, all of the funds and all of the  
16 other pools did the same thing.

17 Q. You also made an arrangement with the  
18 New Hampshire School Boards Administration  
19 (verbatim) to encourage school districts to sign  
20 up with the Local Government Center, correct?

21 A. Yeah, part of our marketing and  
22 strategic plan, yup.

23 Q. If I can turn you to Exhibit -- I think

1           it's 20 -- book 1, Exhibit 20. BSR 20.

2                         Exhibit 20 is a strategic partnership  
3 support agreement between the Local Government  
4 Center and the New Hampshire School Boards  
5 Association, correct?

6           A.         Yes.

7           Q.         And that was negotiated and signed in  
8 2005?

9           A.         Yes.

10          Q.         I couldn't hear you? Yes?

11          A.         Yes.

12                         MR. RAMSDELL: If I may, if he's going  
13 to be asked questions about the documents, it's  
14 clear he's still looking at the document.

15                         THE WITNESS: I'm sorry, I can't hear.

16                         MR. RAMSDELL: I'm sorry, I should  
17 speak up. I apologize.

18                         THE PRESIDING OFFICER: Come to the  
19 microphone, please, Mr. Ramsdell.

20                         MR. RAMSDELL: If he's going to be  
21 asked -- it's one thing for him to identify the  
22 document in the beginning, he clearly could do  
23 that, but he's still looking at the document. If

1 he's going to be asked substantive questions about  
2 it, I'd ask that he be given a chance to read the  
3 document.

4 MR. VOLINSKY: Sure. Yeah, no problem.

5 THE PRESIDING OFFICER: Fine.

6 Mr. Andrews, please take the time you need to  
7 familiarize yourself or refamiliarize yourself  
8 with the document. After a reasonable time I will  
9 check to see if you've done so.

10 Are you ready to proceed, Mr. Andrews?

11 THE WITNESS: Yes.

12 THE PRESIDING OFFICER: Very good.

13 BY MR. VOLINSKY:

14 Q. So the agreement -- I'm not interested  
15 in the receipt, which happens to be first page.  
16 The agreement itself was negotiated by you and Ted  
17 Comstock?

18 A. Yes.

19 Q. And this agreement resulted in the  
20 School Boards Association moving into the LGC  
21 building at Triangle Park Drive, correct?

22 A. Yes.

23 Q. And in addition -- and that was without

1 rent being paid?

2 A. Yes.

3 Q. And in addition to not paying rent, the  
4 Local Government Center provided what are called  
5 strategic support payments --

6 A. Yes.

7 Q. -- to the School Boards Association?

8 A. Yes. That was in furtherance of the  
9 strategic plan.

10 Q. So if we look at paragraph 3 which is  
11 entitled strategic support, we can see that the  
12 payments are outlined in the following paragraphs.  
13 And these are payments that were set up to be  
14 repeated year after year?

15 A. Yes.

16 Q. So first payment was for \$68,000,  
17 correct?

18 A. Yes.

19 Q. Outlined year? Plus \$10,000?

20 A. Yes.

21 Q. Plus \$5,000?

22 A. Yes.

23 Q. Plus an amount to be negotiated between

1 five and 10,000?

2 A. Yes.

3 Q. Paragraph D.

4 A. Yes.

5 Q. If we move to the second page, plus  
6 \$40,000?

7 A. Yes.

8 Q. Plus \$10,000?

9 A. Yes. And --

10 Q. There is then at paragraph 6 -- and you  
11 make provision for periodic payments. And then at  
12 paragraph 6 there's a section called term  
13 modification and termination. Do you see where I  
14 am, paragraph 6, John?

15 THE PRESIDING OFFICER: 6C?

16 A. Yes.

17 Q. This is an agreement without end, isn't  
18 it?

19 A. I'm sorry, without what?

20 Q. End. It doesn't have an ending date,  
21 it just provides for notice --

22 A. Of termination, yes, by either party.

23 Q. By either party.

1           A.       Each of those payments --

2           Q.       I don't believe there's a question  
3 pending.

4                    THE PRESIDING OFFICER:   Excuse me,  
5 Mr. Andrews, let him ask his next question,  
6 please.

7 BY MR. VOLINSKY:

8           Q.       And as far as you know, the School  
9 Boards Association continues to be located in your  
10 building -- or in the LGC building on Triangle  
11 Park Drive?

12          A.       As far as I know, yes.

13          Q.       You also negotiated a lease with the  
14 New Hampshire Bond Bank, didn't you?

15          A.       Yes.

16          Q.       And that allowed the bond bank to move  
17 into the building at Triangle Park Drive, correct?

18          A.       Yes.

19          Q.       And they were given a fixed rate lease  
20 designed to be below market for ten years, right?

21          A.       I don't know if it was below market at  
22 the time it was signed, but there was a fixed rate,  
23 ten years.

1           Q.       Fixed rate ten years, actually includes  
2 everything including coffee?

3           A.       Yeah. Yes.

4           Q.       So, space, utilities, use of conference  
5 areas, secretarial support, janitorial, and  
6 coffee, right?

7           A.       Yes. They only had two employees.

8           Q.       When the organizations reorganized in  
9 2003, that building and its land were owned mostly  
10 by HealthTrust Corp., and to a lesser extent by  
11 Property/Liability, correct?

12          A.       Yes, and NHMA actually had some money  
13 into it, too.

14          Q.       But the ownership was essentially 75/25  
15 HealthTrust more than Property/Liability?

16          A.       Yes.

17          Q.       And that property was contributed to  
18 the reorganized Local Government Center Real  
19 Estate, LLC, correct?

20          A.       Yes.

21          Q.       And that LLC was wholly owned by Local  
22 Government Center parent, correct?

23          A.       Yes.

1           Q.       And there was no compensation paid to  
2 HealthTrust for its 75 percent, correct?

3           A.       Correct, other -- other than if it were  
4 all set and dissolved, it would go back -- the  
5 proceeds, including any profit, if there was any --

6           Q.       Yup.

7           A.       -- say it would go back to the  
8 HealthTrust.

9           Q.       Right. That was actually going to be  
10 my next question.

11          A.       And then to the members, because the  
12 LGC bylaws provided for that.

13          Q.       The next question was going to be, and  
14 you started to go there, is if there's a  
15 dissolution of the Local Government Center, the  
16 Local Government Center's assets go back to its  
17 members through the bylaws, correct?

18          A.       Yes.

19          Q.       If there is a dissolution of the  
20 parent, or a sale of the real estate without  
21 dissolution, there's nothing that provides for the  
22 repatriation of the HealthTrust's contributed  
23 value, is there?

1           A.       I don't know what's in the real estate  
2       bylaws, I don't recall, but, I mean, that's -- I  
3       think everybody understood that that's what would  
4       happen to it. I mean, there isn't any other  
5       logical place for it to go.

6           Q.       Is there any note, mortgage, deed  
7       restriction that you can recall that says on sale  
8       HealthTrust gets paid back?

9           A.       I don't know of any.

10          Q.       Is there anything -- well, HealthTrust,  
11       despite having contributed 75 percent of the value  
12       of this real estate pays rent, right?

13          A.       Yes. Everybody does, yup.

14          Q.       Each of the organizations pays rent?

15          A.       There's Property and Liability and  
16       NHMA.

17          Q.       Right.

18          A.       That's to flip it for the operating  
19       costs of the building.

20          Q.       And the rent is charged out at a --  
21       basically a cost value, correct?

22          A.       It's my understanding.

23          Q.       So if that cost value -- because --

1 well, there's no mortgage on this place, is there?

2 A. No, there isn't. No.

3 Q. And there's no official property taxes  
4 paid, you pay a PILOT, instead --

5 A. PILOT.

6 Q. -- that you negotiated?

7 A. I don't recall negotiating it, but we  
8 may have made an offer. I think it's the -- the  
9 city's -- the city's property tax rate applied to  
10 whatever the assessed value is, not including  
11 school tax and county tax.

12 Q. Okay, so you save --

13 A. Basically for city services.

14 Q. Got it. So the costs that are assessed  
15 to Health -- while you were there, Health and  
16 Property/Liability, those costs are assessed on  
17 essentially the same cost basis to each of the  
18 programs that are there?

19 A. I believe so, yes. I didn't -- I  
20 didn't personally do the calculations.

21 Q. But you understand that's how it was  
22 intended?

23 A. Yes.

1           Q.       So HealthTrust doesn't get a particular  
2 benefit in its share of the cost because it  
3 contributed the overwhelming value of the building  
4 to the enterprise, does it?

5           A.       No.

6           Q.       Thank you.

7           THE PRESIDING OFFICER: Mr. Volinsky,  
8 for the record, would you explain the acronym  
9 PILOT?

10          MR. VOLINSKY: Sure.

11          THE PRESIDING OFFICER: Thank you.

12          MR. VOLINSKY: PILOT is a payment in  
13 lieu of taxes.

14          THE WITNESS: Correct.

15          MR. VOLINSKY: Thank you.

16 BY MR. VOLINSKY:

17          Q.       So it's for nonprofits who ordinarily  
18 aren't charged property taxes, they make a payment  
19 similar to the tax rate so that city services are  
20 reimbursed?

21          A.       Well, some do. We wish everybody did,  
22 but.

23          Q.       Fair enough. Fair statement. Okay,

1 let's switch topics.

2 In the -- you joined NHMA in 1975,  
3 right?

4 A. Yes.

5 Q. You had been at the Maine municipal  
6 association, which is its counterpart?

7 A. Yes.

8 Q. And that's where you had gone to work  
9 after you graduated from Maine law school?

10 A. Yes.

11 Q. Just about. And at the Maine municipal  
12 association your responsibilities were largely  
13 lobbying and legislative related?

14 A. Yes.

15 Q. I think there might have been one  
16 three-month period when the executive director was  
17 on sabbatical and you covered for that person?

18 A. Yes.

19 Q. So coming to NHMA you had essentially  
20 three months' experience running a risk pool  
21 organization?

22 A. Yes, other than that I was a lobbyist.

23 Q. Right, I accept that. Within three or

1 four years of joining NHMA you hired a young law  
2 school graduate named Paul Genovese, did you not?

3 A. Yes.

4 Q. And Genovese was assigned to manage the  
5 operations of the NHMA's workers' comp. program?

6 A. Yes.

7 Q. And it's your opinion that after three  
8 or so years in that position Mr. Genovese  
9 convinced the board of that workers' comp. program  
10 to split off and form another organization, right?

11 A. Yes.

12 Q. And at the time that organization was  
13 known as Compensation Funds of New Hampshire?

14 A. Yes.

15 Q. Later it changed its name and  
16 reorganized some and became Primex, right?

17 A. Yes.

18 Q. And Mr. Genovese went on to head Primex  
19 for a period of time?

20 A. Yes.

21 Q. He's now retired?

22 A. Yes.

23 Q. And we talked about this at deposition.

1       You considered yourself somewhat personally  
2       betrayed by Mr. Genovese's conduct in splitting  
3       off the workers' comp. program?

4             A.       Yes.

5             Q.       And at times you may have even referred  
6       to him as a traitor with your boards?

7             A.       Yes.

8             Q.       And early in the 90s you considered  
9       Primex, which was mostly a workers' comp.  
10       insurance program, to be setting its sights on  
11       property/liability insurance programs, right?

12            A.       Yes, it was more than mostly workers'  
13       comp. it was all workers' comp., and it was around  
14       1997, thereabouts, that we learned that they were  
15       about to enter the Property and Liability field.

16            Q.       And one of the things you considered  
17       Primex to be doing to enter the Property and  
18       Liability field was that Primex was using what we  
19       call member balance accumulated from its workers'  
20       comp. operations to subsidize its effort into  
21       getting into the property/liability, right?

22            A.       Yes.

23            Q.       And you thought they were doing that?

1           A.       Yes.

2           Q.       And you were pretty clear in talking to  
3 your board that that was improper for them to do,  
4 correct?

5           A.       Yes.

6           Q.       As a matter of fact, I think you called  
7 it cash flow underwriting?

8           A.       No, I don't think I called that cash  
9 flow underwriting, but I think it was in reference  
10 to the -- to the three years or so of significant  
11 losses that we had because private health insurance  
12 carriers were moving into New Hampshire, like  
13 Harvard Pilgrim and CIGNA and that, and they were  
14 essentially buying the business.

15                   I don't think I applied that to what  
16 Primex was doing. I may have, but cash flow  
17 underwriting was more in the context of, you know,  
18 a period of extreme competitive pricing.

19           Q.       Okay, I'll accept your explanation for  
20 now. Cash flow underwriting is extreme  
21 competitive pricing. That means that rather than  
22 pricing directly on the underwriting needs, the  
23 pricing is done to gain market share?

1           A.       Correct.

2           Q.       And when you say that Primex was acting  
3           improperly using member balance from workers'  
4           comp. to get into the property/liability business,  
5           they were setting their rates in  
6           property/liability at a very low level in order to  
7           gain market share, weren't they, in your opinion?

8           A.       Yes. I mean, it -- you know, I think  
9           we concluded that based on, you know, what we would  
10          see for quotes that they were giving, you know,  
11          communities that had some pretty severe losses and  
12          risks.

13                    I mean, we looked at what we were  
14          charging, and then we looked at, you know, 20, 25  
15          percent reduction from our price, you know, being  
16          offered by Primex, and we didn't know how the hell  
17          they were doing that.

18          Q.       And you concluded that what they were  
19          doing was subsidizing Property/Liability with  
20          workers' comp. money?

21          A.       Yes.

22          Q.       Right?

23          A.       Yes.

1           Q.       So in some respects, in that respect,  
2           Primex was engaging in the improper cash flow  
3           underwriting?

4           A.       Improper underwriting.

5           Q.       Okay.

6           A.       Which was cash flow, yeah.

7           Q.       And you thought, just to make the point  
8           clear, that it was improper because risks should  
9           be underwritten based on their merits, and not  
10          based on using other money to come in and buy  
11          market share?

12          A.       Yes.

13          Q.       And you talked about this concept of  
14          the impropriety of Primex buying market share by  
15          using workers' comp. member balance to get into  
16          the property/liability business with the boards  
17          existing at the time this was happening?

18          A.       Yes.

19          Q.       Let me switch you to the payment of  
20          money into the Local Government Center's workers'  
21          comp. program from its HealthTrust's -- trust  
22          program. Okay, switch topics? That money that  
23          was paid over a number of years totaling some 17,

1       \$18 million was a subsidy, was it not?

2           A.       Yes.

3           Q.       It was a subsidy that was paid  
4 primarily by HealthTrust to the workers' comp.  
5 program?

6           A.       Yes, but it was only offered to members  
7 of the HealthTrust as a package deal, so that in  
8 effect we were taking their money and giving it  
9 back to them through reduced workers' comp. rates.

10          Q.       Property/Liability also contributed to  
11 the workers' comp. subsidy in a much smaller  
12 proportion?

13          A.       Yes, and I think they had to be a  
14 member in the Property and Liability trust, too, in  
15 terms of it was a package deal.

16          Q.       So is it your testimony that workers'  
17 comp. rates were or were not subsidized using  
18 HealthTrust member balances?

19          A.       They were.

20          Q.       And the members in HealthTrust at the  
21 time of the subsidy were not precisely the same  
22 members who took the workers' comp. insurance,  
23 correct?

1           A.       That's correct, not all of them did.

2           Q.       And I think in deposition, and we  
3 talked about it some here, you've talked about the  
4 workers' comp. subsidy from HealthTrust beginning  
5 in 2004, correct?

6           A.       Yes.

7           Q.       Isn't it true that HealthTrust started  
8 feeding money to build the workers' comp. program  
9 even before the reorganization?

10          A.       Yes. At some point before the  
11 reorganization the -- the Property and Liability  
12 trust and HealthTrust each -- each put a half  
13 a million dollars into -- half a million or  
14 625,000, I forget which, into -- into a fund to  
15 meet the requirements that the Department of Labor,  
16 state Department of Labor, had for the  
17 capitalization of a workers' compensation plan. I  
18 mean, that was -- yes.

19          Q.       So this was even --

20          A.       It was a joint venture.

21          Q.       I'm sorry?

22          A.       It was a joint venture.

23          Q.       So this was before the reorganization,

1 right?

2 A. Yes.

3 Q. And now HealthTrust is a -- before the  
4 reorganization a separate nonprofit corporation,  
5 correct?

6 A. Yes.

7 Q. And workers' comp. was either on its  
8 own in a separate corporation or part of  
9 property/liability, right?

10 A. I don't recall.

11 Q. You couldn't recall?

12 A. Which one it was, but it was one or the  
13 other.

14 Q. Right. But it was clear that the  
15 workers' comp. insurance program was not in the  
16 same corporation as the HealthTrust Corporation  
17 prior to reorganization?

18 A. Correct.

19 Q. But despite that, you're describing  
20 600,000 going from mostly HealthTrust to --

21 A. No, it was an equal amount, HealthTrust  
22 and Property and Liability trust.

23 Q. Each of them?

1 A. Yes, same amount.

2 Q. So it was 300 thousand something?

3 A. No, 625,000 each.

4 Q. Each.

5 A. Or 525,000 each, I forgot those two  
6 figures. But Department of Labor wanted a million  
7 dollar fund to backstop the operations of the  
8 workers' comp. program, and that was how  
9 that million dollar fund was presented to them,  
10 half a million dollars each. I don't know that any  
11 of that million dollars was ever actually spent.

12 Q. So it was capitalized from Health money  
13 and from Property/Liability?

14 A. Yes.

15 Q. To meet the million dollar Department  
16 of Labor requirement, correct?

17 A. Yes.

18 Q. Was there a note for that money?

19 A. I don't know. I know it was reported,  
20 you know, in our annual report and stuff.

21 Q. Was there interest paid for that money?

22 A. No.

23 Q. Was that the only money paid from

1 HealthTrust to workers' comp. before the  
2 reorganization?

3 A. I don't recall of any other payment.

4 Q. Let me send you to Exhibit 66, please.

5 MR. RAMSDELL: Could we just take the  
6 morning break at this point to straighten this  
7 out?

8 THE PRESIDING OFFICER: Just hold on,  
9 Mr. Ramsdell.

10 MR. RAMSDELL: I was just going to ask  
11 him --

12 THE PRESIDING OFFICER: One of us can  
13 speak at a time, sir. Please, return to your  
14 table and hold on, and procedurally we will get  
15 through this.

16 MR. RAMSDELL: Sure.

17 THE PRESIDING OFFICER: Mr. Volinsky,  
18 there's been a request to take a morning break at  
19 this time.

20 MR. VOLINSKY: That's fine. Ten  
21 minute?

22 THE PRESIDING OFFICER: Ten-minute  
23 break. We'll return at five past.

1 (Recess taken.)

2 THE PRESIDING OFFICER: Mr. Volinsky,  
3 if you are ready to proceed.

4 BY MR. VOLINSKY:

5 Q. Let me get you to Exhibit 66, 11. You  
6 should have before you the health insurance trust  
7 board minutes for January 19, 2000.

8 A. Yes.

9 Q. Just a couple of quick points. At this  
10 point in time Peter Curro is a HealthTrust board  
11 member?

12 A. Yes.

13 Q. And this time through the  
14 reorganization Mr. Curro remained a board member  
15 either through the HealthTrust or consolidated  
16 organization, correct?

17 A. Yes.

18 Q. And there's another board member I want  
19 to point out, Robert wheeler, was he a board  
20 member at this time?

21 A. Yes.

22 Q. Was he also a state representative at  
23 this time?

1           A.       I think so. I'm not sure exactly when  
2 he stopped running, but I think he was.

3           Q.       And as was typical with board meetings  
4 for HealthTrust, you have the trustees, you have  
5 staff, and then you'd have outside consultants  
6 also present?

7           A.       Yes.

8           Q.       And that practice of having the  
9 trustees or board members, a group of staff and a  
10 group of outside consultants continued even after  
11 the reorganization?

12          A.       Yes.

13          Q.       For the board meetings. So a typical  
14 board meeting before or after the reorganization  
15 involved eight or ten staff people and two or  
16 three consultants, depending on the issue of the  
17 day?

18          A.       Yes, not just board meetings, committee  
19 meetings also.

20          Q.       I'll accept that. So just so we have  
21 it, while I think about it, after the  
22 reorganization, 31 board members, right?

23          A.       Thirty-one. Thirty-one seats. We had

1       some difficulties filling some -- some seats, but I  
2       mean as many as we could get filled.

3               Q.       The board of the Local Government  
4       Center met six times a year?

5               A.       Approximately, yes.

6               Q.       And at each of those meetings  
7       essentially you were scheduled for a breakfast  
8       arrival, meetings for the morning, lunch and done?

9               A.       We went on into the afternoon as late  
10       as we had to go to finish the agenda.

11              Q.       And you would have eight or ten staff  
12       at each of those half dozen meetings, right, board  
13       meetings?

14              A.       Yeah.

15              Q.       And two or three consultants at each of  
16       those meetings?

17              A.       Yeah.

18              Q.       And then in addition there were  
19       committee meetings?

20              A.       Yes.

21              Q.       And so in the reorganized enterprise  
22       there was a finance committee, correct?

23              A.       Yes.

1 Q. Personnel committee?

2 A. Yes.

3 Q. Retirement committee?

4 A. That was later on after the plan become  
5 implemented in 2007.

6 Q. And the plan --

7 A. The defined --

8 Q. Retirement?

9 A. Retirement.

10 Q. And each of those involved a number of  
11 board members sitting as committee members?

12 A. There was also a long range planning  
13 committee or a strategic planning committee, a loss  
14 prevention committee.

15 Q. If the board met as a board six times a  
16 year, how many times did those board subcommittees  
17 meet over the course of a year?

18 A. Oh, some met more often than others.  
19 The finance or budget committee and long range  
20 planning committee, strategic planning committee  
21 met quite frequently. Personnel committee a couple  
22 of times in the -- you know, in the fall, except  
23 when they were studying the idea of a defined

1 benefit pension plan they met more often. But, you  
2 know, it was probably every six to eight weeks,  
3 roughly, almost each of the committees would meet.

4 Q. Okay. And they would be attended by  
5 staff members and consultants as well?

6 A. Yes. In the committee meetings more  
7 often it was staff who were focused on what that  
8 committee was doing. For example, the budget  
9 committee would be myself, Sandal Keeffe, usually  
10 Wendy Parker, and the -- the wellness committee,  
11 loss prevention committee, would be the loss  
12 prevention manager.

13 Q. Sure.

14 A. Maybe the claims manager, Sandal and I,  
15 Wendy. But it wouldn't include necessarily  
16 everybody else.

17 Q. The budget committee in the reorganized  
18 enterprise, Peter Curro was on that?

19 A. Yes, he was chair later on in the  
20 years.

21 Q. Right. But he was either on it as a  
22 committee member?

23 A. Yes.

1 Q. Or as chair the whole time after  
2 reorganization --

3 A. Yes.

4 Q. -- until after you retired?

5 A. Yes.

6 Q. So the point I was going to ask you  
7 about in this set of minutes is actually down here  
8 under section 2, John B happens to be John  
9 Bohenko, is that right?

10 A. Yes.

11 Q. He asked about the money set aside for  
12 workers' comp. and questions how it was  
13 recognized. Sandal -- that's a reference to  
14 Ms. Keeffe?

15 A. Yes.

16 Q. And she was the CFO at the time?

17 A. Yes.

18 Q. She explained that the money would show  
19 up and is an expense from member balance, right?

20 A. Yes.

21 Q. And that's -- this is a HealthTrust  
22 board minute referring to HealthTrust member  
23 balance and how it would deal with money set aside

1 for workers' comp. right?

2 A. Yes.

3 Q. And at this point in time, which is  
4 January of 2000, we're talking about 125,000,  
5 right?

6 A. Yes.

7 Q. And Mr. Bohenko, John B, questioned if  
8 we would recognize this as an account receivable,  
9 and Sandal responded that it was a portion of  
10 members' balance being designated. Do you see  
11 where I am?

12 A. Yes.

13 Q. So accounts receivable means it's due  
14 and owing, right?

15 A. I guess. I -- I dropped out of  
16 accounting in college. Yeah, I think that's an  
17 account receivable.

18 Q. I won't ask you anything more technical  
19 than that.

20 A. Okay.

21 Q. But you were -- you were in this  
22 meeting?

23 A. Yes.

1           Q.       And you understood that the money being  
2           ceded from the HealthTrust to workers' comp. in  
3           the 2000 timeframe was money that was not destined  
4           to be repaid, that's my point. Correct?

5           A.       It wasn't an account receivable. I  
6           can't say that that means it wouldn't be repaid,  
7           but, you know, that's how it was carried on the  
8           books, as the balance designation.

9           Q.       Let me ask you, during any of the time  
10          before the reorganization, this is 2000 that we're  
11          dealing with, the reorg is in '03, was this 125  
12          repaid?

13          A.       It wasn't repaid, to my knowledge.

14          Q.       Okay.

15          A.       On the other hand, I'm not sure if it  
16          was spent, either.

17          Q.       It never went back to HealthTrust?

18          A.       It never went off the books and  
19          transferred, I guess.

20          Q.       Right. So HealthTrust needed a shock  
21          absorber because rates were out of whack and there  
22          was a big loss; this 125 wasn't in HealthTrust's  
23          member balance to cushion the shock of that

1 unanticipated loss, was it?

2 A. No.

3 Q. Thank you. Let me see if I can refresh  
4 your recollection on one point real fast. LGC 201  
5 happens to be a brochure from 2004 from LGC. Let  
6 me just refer you to the middle panel, top bullet.

7 Does that help you remember that at  
8 least at that timeframe your health program was  
9 named as the largest in the nation of its kind?

10 A. Yup. Yeah, that was --

11 Q. Thanks.

12 A. -- that was Business Insurance.

13 MR. VOLINSKY: That's all I needed it  
14 for, don't bother.

15 BY MR. VOLINSKY:

16 Q. So 2004 is the year after the  
17 reorganization, and that does help you remember  
18 that after the reorg you were the largest risk  
19 pool in the nation, according to your own  
20 marketing materials?

21 A. According to Business Insurance.

22 Q. All right, let's switch topics. We  
23 were talking about property/liability rates being

1       subsidized improperly by Primex, in your opinion.

2                   Did you learn in the early 2000  
3       timeframe information that led you to believe that  
4       Primex was going to make the same effort, that is,  
5       use workers' comp. money to subsidize another  
6       program, with respect to health insurance?

7           A.       With respect to health?

8           Q.       Health.

9           A.       Yes.

10          Q.       And that concerned you, did it not?

11          A.       Yes, it concerned the board of  
12       trustees.

13          Q.       And you as well?

14          A.       Yes.

15          Q.       And health was at that time the largest  
16       of the three programs under NHMA --

17          A.       Yes.

18          Q.       -- for risk pool insurance?

19          A.       Yes.

20          Q.       Largest by far?

21          A.       Excuse me?

22          Q.       Largest by far?

23          A.       Yes.

1           Q.       And your concern was that Primex would  
2 use its workers' comp. money to subsidize the  
3 rates charged for health insurance in order to  
4 build market share for Primex, right?

5           A.       Yes.

6           Q.       And your organization made some  
7 efforts, did it not, to try and get the surplus,  
8 or member balance, stripped out of Primex because  
9 you considered them to be using improperly?

10          A.       I -- I'm not recalling that.

11          Q.       Let me refer you to Exhibit 22, which  
12 is this book. BSR 22. Twenty-two is a series of  
13 documents related to proposed legislation and a  
14 committee hearing with testimony related to that  
15 proposed testimony -- that proposed legislation,  
16 sorry.

17          A.       Yeah.

18          Q.       Okay, are you with me? So 22 is an act  
19 proposed relative to pooled risk management  
20 programs for public employers?

21          A.       Yes.

22          Q.       You were a pooled risk management  
23 program?

1           A.       Yes.

2           Q.       Primex was a pooled risk management  
3 program?

4           A.       Yes.

5           Q.       This was sponsored by  
6 Representative Wheeler?

7           A.       Yes.

8           Q.       Is that the same Wheeler we saw a  
9 moment ago in the board minutes?

10          A.       Yes.

11          Q.       Just to make things easier for us, I  
12 put handwritten numbers in the bottom corner of  
13 each page, so I'm turning to what's been marked  
14 No. 2. If I can get this a little clearer, of  
15 course.

16                   This proposal provides for the return  
17 of all earnings and surplus in excess of any  
18 amounts required for administration, et cetera, to  
19 the participating public employers within 90 days  
20 of the completion and review and approval by the  
21 Department of Labor of the annual actuarial  
22 evaluation. Do you see where I am?

23          A.       Yes.

1           Q.       Department of Labor, the only risk pool  
2 supervised by the Department of Labor is workers'  
3 comp. risk pool?

4           A.       Unemployment compensation, I thought.

5           Q.       Could be. Well, doesn't that go to the  
6 unemployment security department?

7           A.       Oh, I'm sorry, yes, it does. Yup.

8           Q.       So it is workers' comp.

9           A.       Yes, it is.

10          Q.       So this is a bill designed to return  
11 earnings and surplus within 90 days after a  
12 particular actuarial evaluation approved by the  
13 Department of Labor, right?

14          A.       Yes.

15          Q.       And the date of this submission -- I  
16 should have had -- here it is -- it's the 2001  
17 session. So 2001 session, that's when you're  
18 hearing the rumblings that Primex is going to use  
19 its excess member balance to come after your  
20 health program, right?

21          A.       Yes.

22          Q.       And this bill goes in, and its goal  
23 here is to have surplus returned within 90 days

1 after this review, right?

2 A. For any workers' compensation programs,  
3 including ours.

4 Q. I guessed you were going to say that,  
5 so let me ask you about that. At this point in  
6 time, 2001, your workers' comp. program had just  
7 gotten its million dollars of funding from its  
8 sister programs, right?

9 A. Uh-hum.

10 Q. So it was just starting?

11 A. Correct, but we anticipated it was  
12 going to grow.

13 Q. You did anticipate it was going to  
14 grow, but at that time it barely met the capital  
15 requirement set by DOL, didn't it?

16 A. Yes.

17 Q. It didn't have excess member capital or  
18 surplus in it, did it?

19 A. Not at that time, no.

20 Q. The program that had all the excess as  
21 Primex, wasn't it?

22 A. Yes.

23 Q. So if this bill had been adopted and

1 surplus was stripped out, it would have had, in  
2 2001, negligible effect on your workers' comp.  
3 program, right?

4 A. Correct.

5 Q. But it would have had a big effect on  
6 Primex's program?

7 A. Yes. I can't recall if that bill  
8 passed. I don't think it did.

9 THE PRESIDING OFFICER: Hold on,  
10 Mr. Andrews, please.

11 BY MR. VOLINSKY:

12 Q. You know from working with the  
13 legislature that they keep track of the people who  
14 testify and provide summaries of their testimony,  
15 kind of in the way of a legislative history?

16 A. Yes.

17 Q. So I'm going to send to you page 10 in  
18 the same exhibit. And this is testimony from  
19 Representative Wheeler, who is your board member,  
20 who introduced and was the prime sponsor of the  
21 bill, he stated comp. funds -- now comp. funds is  
22 now Primex these days, right?

23 A. Yes.

1 Q. It was the predecessor at that time?

2 A. Yes.

3 Q. They changed dividends to discounts.  
4 There's a reference to 5-B. Then he says they  
5 took in 18 million in '98, 16 million in '99.  
6 Your board member, Representative Wheeler says  
7 these are public funds, the Department of Revenue  
8 disallowed hoarding from one year to another.  
9 Money returned to members -- I assume by comp.  
10 funds -- was a discount. He felt that since this  
11 was public money, it should be returned to the  
12 payer. So that's his testimony, I want to ask you  
13 about that.

14 This sentiment here, first of all, that  
15 compensation funds was hoarding public money, that  
16 tracks discussions in your very own board, doesn't  
17 it?

18 A. Yes.

19 Q. And this idea that Primex was doing  
20 something improper by returning the money through  
21 a discount, this reference of discount is  
22 discounting rates, right, as opposed to returning  
23 cash or dividends?

1           A.       I assume so. Yeah. Yes.

2           Q.       You had similar discussions about the  
3           impropriety of using rate discounts versus  
4           dividend returns in your board meetings, did you  
5           not?

6           A.       I guess we probably did. I -- yes.

7           Q.       Representative Clegg, I'll represent to  
8           you, happened to be the chair of this committee.  
9           He asked Mr. Wheeler if he was still on the NHMA  
10          board. Mr. Wheeler said no. He was actually on  
11          the HealthTrust board at the time, right?

12          A.       I -- yes. He was responding to this  
13          question about NHMA board.

14          Q.       Right. Let me move you forward, page  
15          26, please. Page 26 is the written testimony of  
16          Ms. Julia Griffin, who at the time was the town  
17          manager of Hanover. Do you remember --

18          A.       Yes.

19          Q.       -- as town manager?

20          A.       Yes.

21          Q.       She was also a member of the board of  
22          directors for your Property/Liability Trust?

23          A.       Yes.

1           Q.       And was here representing both the town  
2 and the trust?

3           A.       Yes.

4           Q.       And she mentions that this bill is  
5 essential to insure responsible stewardship of  
6 public funds. Did you feel that way?

7           A.       Yes.

8           Q.       And she in her written testimony cited  
9 RSA 5-B: 5 and stated it was passed to insure  
10 that excess monies beyond sufficient reserves to  
11 cover claims were returned to member  
12 municipalities and the other political  
13 subdivisions.

14          A.       Yes.

15          Q.       Did you believe at this time that  
16 that's what 5-B: 5 required?

17          A.       Yes.

18          Q.       And did you sit in on board meetings at  
19 which the board expressed a similar belief that  
20 this is what 5-B: 5 required?

21          A.       Yes.

22          Q.       I didn't hear.

23          A.       Yes.

1           Q.       Turn the page. Did you and your board,  
2 as expressed here by Ms. Griffin, believe that the  
3 Department of Labor had not properly supervised or  
4 regulated Primex as far as how much it was  
5 carrying in designated and undesignated member  
6 equity?

7           A.       Yes.

8           Q.       And did you believe -- and there's a  
9 switch here from Primex to CFNH -- that's the same  
10 organization, isn't it?

11          A.       Yes.

12          Q.       CFNH amassed significant reserves far  
13 in excess of what was required to meet actuarial  
14 standards and has been able to utilize those  
15 reserves for any purpose they choose without the  
16 need to be accountable to members. Did you feel  
17 that this was true of comp. funds at that time?

18          A.       Yes.

19          Q.       And here Ms. Griffin complained that  
20 comp. funds only paid dividends to those entities  
21 that choose to renew coverage, not departing  
22 members?

23          A.       Yes.

1           Q.       And was that at that time at least a  
2 sentiment reflected by your board that it was  
3 improper to withhold dividends or surplus payments  
4 to departing member entities?

5           A.       I don't think our -- I don't think that  
6 our board necessarily felt that way, because, as I  
7 said, we knew they were doing that, and that was  
8 their practice, and that was our practice.

9           Q.       But here Ms. Griffin condemned that  
10 practice?

11          A.       She did.

12          Q.       And then here where it says second,  
13 Ms. Griffin complains that the Comp Funds have  
14 launched new ventures including  
15 property/liability, underpricing your organization  
16 and often the private market, and that according  
17 to her it's become apparent that they are  
18 exploring diversifying into the municipal health  
19 insurance market. That's what you had heard,  
20 right?

21          A.       Yes.

22          Q.       And there's a complaint. And you tell  
23 me if this was discussed as a complaint amongst

1 your board members. They've launched these  
2 ventures by relying on the excessive reserves  
3 they've accumulated in workers' comp. and  
4 unemployment, right?

5 A. Yes.

6 Q. And the complaint was this is public  
7 money, they shouldn't be holding onto that, right?

8 A. Yes.

9 Q. You mentioned you thought this bill  
10 failed. I'll tell you it did.

11 A. Yeah, like, while we were just talking  
12 here, I looked at it. I think they basically  
13 thought that this was just a competition between  
14 two competing businesses. There didn't seem to be  
15 outrage that -- you know, that there was any --  
16 anything wrong with what they were -- what Primex  
17 was doing, or I guess what we were doing.

18 Q. This is page 58 of the same exhibit.  
19 Mr. Clegg, then Representative Clegg for the  
20 committee, voted inexpedient to legislate, which  
21 means it died there. The committee felt this was  
22 an attempt to involve the legislature in a  
23 business battle over clients. One company wants

1 the legislature to force a depletion of surplus of  
2 the competitor party -- competitive party to force  
3 an increase in the competitor's rates.

4 A. Yes, that was their conclusion.

5 Q. So this is 2001. Your enterprise  
6 through Ms. Griffin and Mr. Wheeler made an effort  
7 to get the surplus stripped from Primex, and as we  
8 saw, that failed. You at this time -- well, let  
9 me say it this way. At this point in time, as  
10 this is going on, HealthTrust starts to organize  
11 what's called a joint competition committee, is  
12 that right?

13 A. Yes.

14 Q. And the joint competition committee is  
15 populated by a couple of HealthTrust members, a  
16 couple of PLT members, and a couple of workers'  
17 comp. members, right? Is there any from NHMA --

18 A. A couple of NHMA board members, a  
19 couple of health, a couple of property and  
20 liability. But I think it was initiated by the  
21 health trustees.

22 Q. I think you're correct?

23 A. Yeah, you did say that.

1           Q.       And the goal of this competition  
2 committee, joint competition committee, was to  
3 deal with the Primex threat, wasn't it?

4           A.       Primarily Primex. There was also a  
5 school board trust, too.

6           Q.       But it was -- you didn't have a concern  
7 that the school boards trust was using surplus  
8 improperly, they were just competing against you?

9           A.       Yeah, I don't -- I don't remember much  
10 discussion about the school boards trust.

11          Q.       Right. I mean, this was really about  
12 Primex, wasn't it?

13          A.       Yes.

14          Q.       And one of the goals of the committee,  
15 joint competition committee, was to expose  
16 Primex's practices, right, for what they were,  
17 improper?

18          A.       I don't recall that as a specific goal,  
19 but certainly it was trying to figure out some way  
20 to meet the competition.

21          Q.       Let me get you to Exhibit 42, please.  
22 BSR 42.

23                   MR. VOLINSKY: Oh. I neglected to move

1 to strike the identification on 22, which was the  
2 failed bill, and so I would move to strike it and  
3 ask for its admission.

4 THE PRESIDING OFFICER: Mr. -- well,  
5 Mr. Quirk, you had put that on your list.  
6 Mr. Ramsdell with speak to this, yes?

7 MR. RAMSDELL: I don't have any  
8 objection to you wanting to as far as all of the  
9 legislative history, which I agree is a public  
10 document, but there are two -- a couple of pages  
11 at the end of the exhibit that I'm not sure why  
12 they're with the rest of this, that's all. The  
13 last -- the very last two pages.

14 MR. VOLINSKY: Oh, I can represent why  
15 they're there, but I don't object to their being  
16 removed either.

17 THE PRESIDING OFFICER: Thank you very  
18 much. Why don't you remove them, and I won't even  
19 get to the book.

20 MR. VOLINSKY: I'll take them out of  
21 the book.

22 THE PRESIDING OFFICER: Just tell us  
23 how many pages you're removing from the rear of

1 Exhibit 22, please, or if they're numbered, what  
2 their numbers are.

3 MR. VOLINSKY: Yup. So I'm pulling out  
4 pages 59 and 60.

5 MR. RAMSDELL: Then I have no  
6 objection.

7 THE PRESIDING OFFICER: Now, as  
8 amended, the BSR 22 is admitted into the record.

9 (BSR 22 was marked into evidence.)

10 MR. RAMSDELL: I'm sorry, I apologize,  
11 what is the exhibit you are about to ask about,  
12 42?

13 MR. VOLINSKY: Yes, about to ask about  
14 Exhibit 42.

15 THE PRESIDING OFFICER: I'm really kind  
16 of sorry you all don't have your own copies out  
17 there, but hopefully you can see some of these.

18 THE WITNESS: Did you say 42?

19 MR. VOLINSKY: Yes, 42.

20 BY MR. VOLINSKY:

21 Q. If I could direct you to page 54 in  
22 that exhibit. And I'll represent that I added the  
23 page numbers in the lower right-hand corner just

1 for ease of reference.

2 THE PRESIDING OFFICER: And the page  
3 number you wish us to refer to?

4 MR. VOLINSKY: 5-4.

5 THE PRESIDING OFFICER: Thank you, 54.

6 A. Yes, I have that.

7 Q. Okay, and if you need to look at it for  
8 a moment to see what it is, please do so.

9 THE PRESIDING OFFICER: As he's doing  
10 that, Mr. Volinsky, would you consider your  
11 questioning and the time of day and just be aware  
12 of them?

13 MR. VOLINSKY: Yes.

14 BY MR. VOLINSKY:

15 Q. Good? All right. So what you're  
16 looking for at page 54 of Exhibit 42 is a set of  
17 minutes for the joint competition committee. And  
18 this is marked for internal use only. By that do  
19 I understand this wasn't distributed to members at  
20 the time of these meetings?

21 A. No.

22 Q. They were not. Present at the  
23 meetings -- at this meetings were these people,

1       which includes Julia Griffin, and about ten staff,  
2       including yourself and legal counsel?

3             A.       Yes.

4             Q.       Do you remember discussions whether at  
5       this meeting or just in this timeframe about all  
6       of your entities being under a cloud of  
7       competition with Primex?

8             A.       Yes.

9             Q.       I asked you if part of the goal of this  
10       joint competition committee was to expose Primex.  
11       And if I can get you to page 57.  Wasn't there a  
12       fair amount of discussion -- this time it happens  
13       to be mentioned by Ms. Griffin -- to figure out --  
14       and this is a quote in your minutes -- to figure  
15       out if there's a constructive way to expose  
16       Primex.

17                    She is amazed at how they squander  
18       public funds, why can't we expose these issues.  
19       Is that an ongoing topic of conversation in these  
20       joint meetings?

21             A.       Yes, that's what she said.

22             Q.       And did, you at the time, hold the  
23       opinion that the ideal would be to put Primex out

1 of the workers' comp. business, take it back so  
2 that you would not have to compete any longer?  
3 Was that your opinion in that timeframe?

4 A. No, what I meant -- what I said here  
5 was we ended up in the status quo that we had a few  
6 years ago, and I don't know how the words -- the  
7 clause take back workers' comp., et cetera, meant.  
8 But the status quo a few years ago was where Primex  
9 was doing workers' comp. only; we were doing  
10 property and liability and health, and we weren't  
11 doing workers' comp.

12 Q. Okay, so you just didn't want to  
13 compete about health?

14 A. Yeah, I don't want to continue to  
15 compete.

16 Q. Okay. Was there opinions expressed in  
17 this same meeting and around this time -- this is  
18 page 56, same meeting -- Primex not trying to just  
19 increase their comp. business, they're trying to  
20 be better than NHMA? Is that the concern you guys  
21 had?

22 A. That's what it says.

23 Q. What was the concern that Primex might

1 be better than NHMA?

2 A. I guess what we were concerned about is  
3 that, you know, they were -- they were expanding  
4 into areas that -- you know, that NHMA as an  
5 entity, not the HealthTrust and Property and  
6 Liability trust did, like, you know, professional  
7 recruitment services or, you know, general --  
8 training programs on the right to know law, and,  
9 you know --

10 Q. And that was a problem for your  
11 organization?

12 A. What? Yeah, we thought that was a  
13 problem in the sense of, you know, they were --  
14 they were seeking to do the things that we had  
15 traditionally done as an association.

16 Q. And was that a competitive threat?

17 A. Yes.

18 Q. All right. There's mention here also  
19 of how they're managing to pay for all the  
20 competitive activities they're engaging in?

21 A. Yeah.

22 Q. You then had Ms. Keeffe in this meeting  
23 report on their member balance versus yours?

1 A. Yeah.

2 Q. They had 70 million, about twice yours?

3 A. Yes.

4 Q. So in order to be competitive with  
5 Primex in terms of what member balance should be,  
6 could be used for, they had two times as much as  
7 you?

8 A. Yes.

9 Q. Later on the following year, didn't  
10 your organization decide to double its member  
11 balance?

12 A. I don't recall that.

13 Q. Okay, we'll get to it. You were saying  
14 that there was a school based organization that  
15 was somewhat competitive, I think it was  
16 SchoolCare, not school -- I think it was  
17 SchoolCare at this time, is that correct?

18 A. Yes.

19 Q. Were you willing to go so far as to  
20 infiltrate your competitor's board so that you  
21 could gain a competitive advantage? I'm sorry,  
22 it's page 58. This is the same Ms. Griffin that  
23 we've been talking about, the board member. There

1 was discussion, was there not, about infiltrating  
2 SchoolCare's board in this joint competition  
3 committee?

4 A. That was Julia Griffin's comment. I  
5 don't see any further discussion along those lines.

6 Q. How about the very next sentence?  
7 Wendy Parker was the trust manager for HealthTrust  
8 at this time?

9 A. Yes.

10 Q. And in response apparently in these  
11 minutes to Ms. Griffin's comments or question  
12 about how to infiltrate the board, Parker advises  
13 we were approached by a member of SchoolCare, I  
14 spoke to him last week, Keith Burke and I will be  
15 talking with them.

16 A. But I interpret that as that we weren't  
17 infiltrating their board, that one of their board  
18 member actually came to us, and I don't know what  
19 it was that she and Keith Burke talked to them  
20 about, but it may have been on the lines of trying  
21 to cooperate together and that, not on the lines of  
22 spying, infiltrating, if you will. I don't know  
23 what it was that they talked about.

1           Q.       Did your organization make any efforts  
2 to infiltrate the Primex board?

3           A.       No.

4           Q.       In response to the threatened  
5 competition to your health program, your  
6 organization decided expressly to subsidize its  
7 workers' comp. program with HealthTrust money  
8 because that was the most successful Primex  
9 program, workers' comp.?

10          A.       That was part of the strategic plan  
11 that the board adopted in 2004.

12          Q.       Okay, so let's break that up a little  
13 bit. The board in 2004 met and adopted a  
14 strategic plan, a formal plan of strategy for now  
15 their reorganized enterprise, correct?

16          A.       Yes.

17          Q.       And a big part of that strategic plan  
18 formally adopted by the board was to subsidize  
19 rates in workers' comp., correct?

20          A.       Yes.

21          Q.       And the reason that workers' comp. was  
22 chosen for the subsidy is that that was the main  
23 competitor's primary program, workers' comp.

1           A.       It happened to be their primary  
2 program, but I think the reason why it was chosen  
3 is that that was our -- you know, our weakest  
4 program, if you will, and the idea was to create a  
5 one-stop, you know, shopping, you know, an entity  
6 that could give them a package price on all of --  
7 all of its programs.

8           Q.       The purpose of choosing workers' comp.  
9 as your beneficiary of subsidiary -- of subsidy,  
10 rather -- was so that Primex would have to spend  
11 its member balance to compete with your subsidized  
12 rates, isn't that a lot of what the strategic plan  
13 was?

14          A.       That was certainly a consideration.

15          Q.       And, so, by Primex having strength in  
16 workers' comp. and a lot of accrued surplus with  
17 you subsidizing your competitive workers' comp.  
18 rates, the thought was Primex would have to spend  
19 down its member balance, and therefore it wouldn't  
20 be usable for health?

21          A.       Correct, yes.

22          Q.       And that strategic planning document  
23 came out of a strategic planning retreat, did it

1 not?

2 A. Yes.

3 Q. And that retreat was facilitated by an  
4 outside consultant, was it not?

5 A. Yes. Yes.

6 Q. And that consultant was Jenny Emery?

7 A. Yes.

8 Q. And Ms. Emery was a consultant for your  
9 organization before that strategic plan retreat?

10 A. I think so.

11 Q. Okay.

12 A. Yeah, but -- but I think her major  
13 engagement was strategic plan, but she worked with  
14 the strategic planning committee or long range  
15 planning committee leading up to that summer  
16 retreat.

17 Q. Right.

18 A. So I think she was probably the person  
19 they referred to in this first meeting of the joint  
20 competition committee that's somewhere where they  
21 said we now have a facilitator.

22 Q. So the joint competition committee  
23 you're referring to is a '02 meeting, they talk

1 about a facilitator, and eventually Ms. Emery is  
2 located and becomes the facilitator?

3 A. Yes.

4 Q. And the strategic plan is adopted after  
5 the reorganization in 2004?

6 A. Yes.

7 Q. So the reorg is in '03, and this is  
8 adopted in '04?

9 A. Yes.

10 Q. And Ms. Emery continues as a consultant  
11 for the Local Government Center all through the  
12 remainder of your time as its executive director?

13 A. Yeah, she came in annually at the -- at  
14 each summer's retreat and, you know, went over the  
15 strategic plan and the proper implementation and  
16 that. Yes.

17 Q. And she was not just a facilitator, she  
18 was a person knowledgeable about risk pools,  
19 wasn't she?

20 A. Yes.

21 Q. And she gave your organization advice  
22 on this point of using subsidy to support workers'  
23 comp. rates to challenge your competitor Primex,

1 did she not?

2 A. Yes, there was actually another  
3 consultant, an actuary involved in that, and her --  
4 and I forget what her name was, but she was -- she  
5 and Jenny sort of teamed up on that issue.

6 Q. And is it accurate or too much to say  
7 that Ms. Emery and the other actuary were really  
8 the place where this idea initiated, using the  
9 money to knock down the workers' comp. rate to  
10 challenge Primex?

11 A. Yes. And Maureen Stanzick, I think was  
12 her name, what she did in that regard was develop  
13 projections of program growth and -- and that would  
14 bring the workers' comp. program eventually to a --  
15 to financial viability on its own. Yes.

16 Q. So I would think of her as the numbers  
17 person?

18 A. Yes.

19 Q. Is that fair?

20 A. Yes.

21 Q. And Ms. Emery was the idea person?

22 A. Yes.

23 Q. And one of those ideas was this subsidy

1 plan?

2 A. I think so, yes.

3 Q. Thank you.

4 A. There were -- there were 40 or 50 ideas  
5 that came out of the work that the long range  
6 planning committee did that eventually went to the  
7 board that summer of 2004, and then Jenny organized  
8 teams of board and staff at that retreat to go  
9 through them, discuss them, talk about the  
10 viability of doing them, and you know, we did the  
11 exercises with sticky notes around the room and all  
12 of that.

13 Q. And not all of the 40 ideas were  
14 eventually adopted?

15 A. No.

16 Q. But this idea, subsidizing the workers'  
17 comp. rate to shoot at Primex was adopted?

18 A. Yes.

19 Q. And it was adopted by board action?

20 A. Yes.

21 Q. Peter Curro was at the board retreat  
22 that when this plan was developed in '04?

23 A. Yes, I believe he was.

1 Q. And when there was board action  
2 adopting this piece of the plan, the subsidization  
3 of workers' comp., Mr. Curro voted for that?

4 A. I think he did, yes.

5 Q. And when payments were made year after  
6 year after year through the point you left,  
7 Mr. Curro was part of the board that voted for  
8 each of those payments?

9 A. Yes.

10 Q. Now, you were there '04 to '09 when you  
11 left?

12 A. Yes.

13 Q. Any of those years -- well, let me ask  
14 you, in each of those years there started to be  
15 what is called strategic planning contributions or  
16 distributions, are you aware of those?

17 A. Yes.

18 Q. Am I using the right term?

19 A. Yes, strategic planning distributions,  
20 yes, expenditures.

21 Q. I'll accept that. The strategic  
22 planning expenditures, most of that money came out  
23 of HealthTrust?

1           A.       Most of it did, because that was the  
2 biggest program we had.

3           Q.       Right.

4           A.       And the amount to be used for strategic  
5 planning purposes was 1 percent of net revenues, if  
6 you will.

7           Q.       But --

8           A.       1 percent of gross revenues, except for  
9 a certain portion which we attributed to the  
10 employee share.

11          Q.       We'll talk about that in a minute. But  
12 understanding it's not completely gross revenues,  
13 but just to make it easier --

14          A.       Yes.

15          Q.       -- the board set the strategic planning  
16 expenditures with 1 percent of gross revenues with  
17 the exception, right?

18          A.       Yes.

19          Q.       It set that knowing how much bigger  
20 HealthTrust was than your other programs, right?

21          A.       Yes.

22          Q.       And so by simply saying, well,  
23 everybody contributes 1 percent, we weren't

1 fooling anyone, were we, that was mostly  
2 HealthTrust.

3 A. I don't think anybody was fooling  
4 anyone in terms of that.

5 Q. And the money was called strategic  
6 planning expenditure.

7 A. Uh-hum.

8 Q. You all could have called it this is  
9 the subsidy money, right?

10 A. Except that not all of it went to  
11 subsidy, some of went to that piece of the school  
12 boards, you know, trust payment. Some of it went  
13 to, you know, hiring more, you know, IT staff or  
14 people in the finance department, yes.

15 Q. If I were to suggest to you that the  
16 total of strategic plan expenditures was about  
17 34 million, and about 18 million of that went to  
18 the subsidy, does that sound about right to you?

19 A. That sounds accurate, and from  
20 everything that I've seen in this whole process,  
21 seeing those figures, yup.

22 Q. So was there anything that prevented  
23 your board from calling the 18 million piece

1 subsidy?

2 A. I don't think so, no.

3 Q. Would you agree with me that this all  
4 would have been a whole lot more transparent if  
5 you'd simply called subsidy payments subsidy  
6 payments, right?

7 A. Yes.

8 Q. In addition, the strategic plan  
9 expenditures, they all went up from health or  
10 workers' comp. or property/liability to the  
11 parent?

12 A. Yes.

13 Q. They didn't go directly from health to  
14 workers' comp?

15 A. No.

16 Q. You would agree with me that that  
17 process also made it less transparent?

18 A. Well, yeah, it wasn't labeled a  
19 subsidy, but, I mean, I thought it was reported in  
20 audit reports and stuff, you know. But, yeah, it  
21 was probably less transparent than it could have  
22 been called that's a subsidy.

23 Q. Was there anything that you were

1        advised that legally prevented the 18 million from  
2        going directly from health to workers' comp.  
3        instead of passing through the parent holding  
4        company?

5            A.        I don't recall any -- any --

6            Q.        Are you aware of any today, any reasons  
7        why it couldn't have been a direct intercompany  
8        conveyance?

9            A.        I don't know of any reason why not.

10          Q.        We were --

11          A.        Can I expand on that?

12          Q.        I'm sorry, I couldn't hear you.

13          A.        Can I expand on that answer a little  
14        bit?

15          Q.        If it's responsive to my question, I  
16        don't object.

17          A.        There wasn't any intent to hide  
18        anything, it's that it was -- those were just part  
19        of implementing the strategic plan. Everything  
20        that was -- that was done was in furtherance of the  
21        strategic plan, and that's how it got  
22        characterized, so.

23          Q.        Okay. Was reorganizing it to the

1 parent subsidiary model part of this strategic  
2 plan?

3 A. No, the strategic -- the strategic plan  
4 came a year after the reorganization.

5 Q. That's what I thought.

6 A. That wasn't part of the consideration.

7 Q. That's what I remembered, I just wanted  
8 to check. The reorganization into the parent  
9 holding company that facilitated these later  
10 strategic planning payments that were indirect --

11 MR. RAMSDELL: I object to the --

12 THE PRESIDING OFFICER: One moment,  
13 please, Mr. Andrews. Mr. Ramsdell.

14 MR. RAMSDELL: I object to the  
15 characterization that it facilitated the  
16 transfers. I don't think there's been any  
17 testimony to that effect.

18 MR. VOLINSKY: I'll withdraw it and  
19 rephrase it.

20 THE PRESIDING OFFICER: Please do.

21 Objection granted.

22 BY MR. VOLINSKY:

23 Q. The strategic planning expenditures

1       that were really a subsidy, the part of it, the  
2       18 million, that was accomplished by having  
3       HealthTrust send the money to the parent, and then  
4       the parent send the money to the workers' comp.  
5       program, correct?

6             A.       Yes.

7             Q.       So in that way the parent facilitated  
8       the payment, correct?

9             A.       Yes.

10            Q.       This parent holding company subsidiary  
11       model, when you all adopted it, you were not aware  
12       of a single risk pool in the nation that used a  
13       parent subsidiary model to support it?

14            A.       I -- I wasn't aware of any. There may  
15       have been, but I --

16            Q.       And as you sit here today, you're not  
17       aware of a single risk pool that uses a parent  
18       subsidiary model other than your former  
19       enterprise, correct?

20            A.       No, I'm not aware of any. I've been  
21       out of the business for two and a half years.

22            Q.       I couldn't hear --

23            A.       I've been out of the business for two

1 and a half years. I don't know where things are  
2 nowadays.

3 Q. I'll take you through your retirement,  
4 which was September '09. By the time you retired,  
5 you were unaware of any other municipal risk pool  
6 that operated in a parent subsidiary model,  
7 correct?

8 A. No.

9 Q. Okay.

10 A. That's not correct. There's about 600  
11 risk pools in the country at the time, and almost  
12 every municipal association operated one, and there  
13 were a number of those that were -- you know, you  
14 have the association, you know, and they owned the  
15 risk pool. They were the -- they were the parent  
16 organization of the risk pool.

17 Q. So your testimony is you were aware of  
18 other parent/subsidiary organizations for the  
19 corporate entity for risk pools?

20 A. Yes. I didn't know what the detailed  
21 structure was, but I knew that you had, you know --  
22 you know, a risk pool in Vermont that was, you  
23 know, operated by the Vermont League of Cities and

1        Towns, and I always looked at that as the parent  
2        and -- you know, and the subsidiary. I don't know  
3        how they were structured legally.

4            Q.        That's really what I'm trying to ask  
5        you about, and maybe I should have been more  
6        clear.

7            A.        I don't know how they were structured  
8        legally, but, you know, operationally there were a  
9        number of municipal associations around that  
10       country that operated risk pools; you know,  
11       Pennsylvania and Virginia and Florida.

12           Q.        So did you have a model? Was there a  
13       state that you followed in reorganizing that they  
14       did parent subsidy, so --

15           A.        No.

16           Q.        -- we think it's a good idea?

17           A.        No, because I basically didn't design  
18       this parent subsidy -- subsidiary kind of  
19       arrangement, we relied on our legal counsel to  
20       effect that, you know, go take us through the  
21       process.

22           Q.        Okay, let me separate that, if I can.

23           A.        Okay.

1 Q. I was asking you about design of the  
2 structure.

3 A. Yeah.

4 Q. Your answer mentioned effectuate that,  
5 so let me separate those two.

6 A. Okay.

7 Q. Are you testifying that your outside  
8 legal counsel was the source of the idea to use  
9 the parent subsidiary model as a legal, corporate  
10 entity?

11 A. Yeah.

12 Q. Okay.

13 A. Yes.

14 Q. And who was the counsel?

15 A. Bob Lloyd.

16 Q. Bob Lloyd. And he was at Hinckley  
17 Allen at the time, or his predecessor?

18 A. No, I don't know if he was with  
19 Cleveland Waters.

20 Q. Cleveland Waters?

21 A. Or Hinckley Allen, it was one of those  
22 two firms.

23 Q. And in terms of second part of it,

1           effectuating it, that was Mr. Lloyd?

2           A.       Yeah.

3           Q.       Not you?

4           A.       Well, you know, he prepared all the  
5 documents, and -- you know, and filed stuff  
6 legally, and had me sign stuff, and -- you know, to  
7 effectuate the merger.

8           Q.       You knew what you were signing?

9           A.       Well, I can see, you know, what I was  
10 signing, and -- you know, but I didn't ask any  
11 questions about it, I just signed it, and I relied  
12 on him.

13          Q.       I understand. You know now that the  
14 merger went through Delaware? You know now that  
15 the merger went through Delaware?

16          A.       Now I do, yes.

17          Q.       And you know now that that was a  
18 violation of 5-B?

19          A.       Yes, I didn't know it at the time.

20          Q.       You didn't know that Delaware happened  
21 at the time, or you didn't know it was improper at  
22 the time?

23          A.       I didn't know it was improper.

1 Q. Okay.

2 A. I didn't know it was improper until,  
3 what was it, 2010 or '11 or something that these  
4 proceedings started, and, you know, that was one of  
5 the problems, and I guess the LGC rectified that,  
6 from what I read in the paper.

7 Q. From?

8 A. From what I read in the paper.

9 Q. So you're getting this from the news  
10 media?

11 A. Well, I got that from the newspaper,  
12 yes.

13 Q. Okay. Were you aware that the Hinckley  
14 Allen lawyers were told the proposed merger plan  
15 was not legal under New Hampshire law before it  
16 was implemented?

17 A. No. I didn't know that.

18 Q. And is it your testimony that you  
19 didn't know as a result of being told that it was  
20 illegal that the lawyers went to Delaware?

21 A. No, I didn't know that was why they  
22 went to Delaware.

23 Q. Okay.

1           A.       That was -- that was a complete  
2 surprise to me, that it was -- that they had been  
3 told, you know.

4           Q.       That they'd been told, it was a  
5 surprise?

6           A.       Told they couldn't merge these entities  
7 under New Hampshire law.

8           MR. VOLINSKY: This is probably a good  
9 break point. I'm going to switch to a different  
10 topic, and it will be a --

11          THE PRESIDING OFFICER: How much longer  
12 do you have for this witness, do you anticipate?

13          MR. VOLINSKY: Half-hour, 45 minutes.

14          THE WITNESS: I can push on,  
15 Mr. Mitchell.

16          THE PRESIDING OFFICER: One moment,  
17 Mr. Andrews. Mr. Ramsdell, is this in your  
18 opinion a good time to break?

19          MR. RAMSDELL: Yes.

20          THE PRESIDING OFFICER: Then we'll take  
21 our lunch break, and we'll see you at 1:30.

22          MR. VOLINSKY: Thank you.

23          THE PRESIDING OFFICER: Then we'll take

1 our break now and we'll convene at 1:30.

2 Mr. Andrews, I appreciate your willingness to  
3 trudge on.

4 (Recess taken.)

5 THE PRESIDING OFFICER: Good afternoon,  
6 ladies and gentlemen, we have returned from our  
7 lunch recess. We are in the stated proceedings  
8 where Mr. Andrews is still on the stand under the  
9 questioning of Mr. Volinsky. Are we prepared to  
10 proceed, Mr. Volinsky?

11 MR. VOLINSKY: Yes, sir.

12 THE PRESIDING OFFICER: Very good,  
13 please do so.

14 MR. VOLINSKY: Thank you.

15 BY MR. VOLINSKY:

16 Q. Mr. Andrews, this morning we talked --  
17 we saw a set of October '02 meeting minutes in  
18 which the Primex member balance was set out as  
19 being about 70, and Ms. Keeffe reported at the  
20 time that you folks at HealthTrust were at about  
21 35. So Primex at that time was about double you.  
22 Do you remember that --

23 A. Yes.

1 Q. -- part of our discussion this morning?

2 A. Yes.

3 Q. I think that's also the minutes where  
4 we talked -- we saw the writing about the cloud of  
5 competition from Primex.

6 Let me take you from there to some  
7 meetings and retreat minutes from that 2002  
8 timeframe, and as a preface, let me ask you a  
9 couple of questions. Mr. Riemer was your  
10 HealthTrust actuary at the time, was he not?

11 A. Yes.

12 Q. '02?

13 A. Yes.

14 Q. And he would come in periodically  
15 during the appropriate times of year and propose  
16 premiums for the next plan period, correct?

17 A. Yes.

18 Q. And he would explain what went into the  
19 premiums and occasionally the board, as you  
20 mentioned, with the medical trend would issue a  
21 slightly different opinion, and you'd come to some  
22 consensus as to what the premiums would be for  
23 that next period, right?

1           A.       Yes.

2           Q.       When the board -- or, actually, in this  
3 case, when the joint competition committee became  
4 interested in increasing the member balance, they  
5 consulted with Mr. Riemer on that point, did they  
6 not?

7           A.       Yes, I would assume so, that would be  
8 the general practice, yeah. They wouldn't make any  
9 rating decisions without input.

10          Q.       Right. And before there was a decision  
11 to raise member balance, let me talk about how the  
12 member balance was calculated, ask you some  
13 questions about that.

14                   So HealthTrust for quite a while had  
15 what's called aggregate stop loss or aggregate  
16 reinsurance, did it not?

17          A.       Yes.

18          Q.       And what that essentially meant was  
19 that HealthTrust, with Mr. Riemer, would predict  
20 claims, and then at some point, usually 120  
21 percent, if the claims exceeded that amount, it  
22 would be ceded to the reinsurance?

23          A.       Yes.

1           Q.       And so for quite a while, HealthTrust  
2 had a target of member balance to fill in that  
3 difference between 120?

4           A.       Yes.

5           Q.       Only HealthTrust never maintained that  
6 much member balance, even though it was the  
7 target?

8           A.       I don't -- I don't recall if we ever  
9 hit that 20 percent. That's called the risk  
10 corridor.

11          Q.       Risk corridor?

12          A.       Yeah. But that certainly was a target.  
13 That was -- because we were on the hook for -- for  
14 all claims between 100 percent of the claims  
15 projection and the reinsurance.

16          Q.       Right.

17          A.       So we needed the money somewhere. And  
18 it could have been a letter of credit, for example,  
19 but I think that was our target to get to that  
20 point.

21          Q.       Right. That's what I say, target.  
22 That was the target.

23          A.       Yeah.

1           Q.       But we'll see some minutes that will  
2 tell us whether you were at it or not, so don't  
3 worry about that.

4                    But Mr. Riemer was consulted about  
5 increasing member balance, and is he not the  
6 person who introduced the concept of risk-based  
7 capital for discussion?

8           A.       Yes. The -- the board sort of  
9 struggled with this question of how much is enough  
10 and how much is too much, and so they asked Peter  
11 to come back and give them a little tutorial on  
12 ways that they could judge that.

13                   And he came in and, you know, I think  
14 he said that there were two or three different ways  
15 that -- you know, that insurance companies and  
16 pools, from what he knew of pools, you know, how  
17 they covered, you know, what they measured as  
18 enough or too much or whatever. And then he said I  
19 would recommend risk-based capital.

20           Q.       One point about Mr. Riemer, you folks  
21 were the only risk pool that he provided actuarial  
22 services to, isn't that right?

23           A.       I don't know. That may be the case,

1 but I don't recall.

2 Q. We'll leave it for him. If you don't  
3 know, that's fine. The idea of risk-based  
4 capital, we just talked about this risk corridor  
5 which was 20 percent, and we'll see whether you  
6 were meeting it or not. Do you remember  
7 Mr. Riemer consulting with you and telling you  
8 that 20 percent of member balance -- or 20 percent  
9 of claims was essentially 4.2 RBC?

10 A. I don't recall that.

11 Q. Do you remember that when you and your  
12 organization HealthTrust started this process, and  
13 Mr. Riemer then calculated your then existing RBC,  
14 you were about at 2.1 or 210 percent?

15 A. I honestly don't remember the  
16 specifics, but --

17 Q. That's fine.

18 A. -- there's probably something that says  
19 that it was.

20 THE PRESIDING OFFICER: Do you have  
21 documents?

22 MR. VOLINSKY: Yes, I do.

23 THE PRESIDING OFFICER: Let's not make

1       it a guessing drill, then.

2       BY MR. VOLINSKY:

3             Q.       All right, let's start with Exhibit 42  
4       at 54, please.

5             A.       Page 54?

6             Q.       Yeah, of Exhibit 42. This is the --  
7       let's just do it quickly so I can do it this way.  
8       We've seen this this morning. This is the cloud  
9       of competition set of joint committee -- joint  
10       competition notes.

11            If you flip to page 56, this is what I  
12       was referencing. Primex was at 70 million, you  
13       were at 35 million. So Primex was roughly double  
14       you, correct?

15            A.       Yes.

16            Q.       All right. Now go to Exhibit 66 for  
17       me, which is in a different book.

18            A.       Oh, okay.

19            Q.       This one. And in Exhibit 66 go to 206.  
20       Okay, are you there? This is a set of minutes  
21       from a board of trustees meeting for HealthTrust  
22       for November 25, '02, right?

23            A.       Yes.

1 Q. And as in the same structures we saw  
2 before, there's a listing of the trustees present,  
3 all the consultants that are present, and then a  
4 listing of the staff, and you happen to list that  
5 Anthem is a guest at this one, right?

6 A. Yes.

7 Q. All right, turn forward to page 207,  
8 and you'll see a topic called review and action on  
9 members' balance policy recommendation?

10 A. Yeah.

11 Q. That's this topic area about risk-based  
12 capital, right?

13 A. Yes.

14 Q. And you can see there's even a  
15 reference to the NAIC risk-based capital?

16 A. Yes.

17 Q. If you go to the very next paragraph,  
18 this is Peter Riemer presenting to everyone?

19 A. Yes.

20 Q. He advices HealthTrust is at 2.1, I  
21 would like to see it at 4.2. Do you see where I  
22 am?

23 A. That's correct. He talks about what

1 Blue Cross Blue Shield requires for Anthem for its  
2 participants, and he talks about what the national  
3 level generally is, where we are at that time, and  
4 what his recommendation would be based on insurers  
5 in our asset range collect in the area of 4.6  
6 times. And then he recommended the goal of 4.2.

7 THE PRESIDING OFFICER: Mr. Andrews,  
8 could I ask you to please try to keep your voice  
9 up?

10 THE WITNESS: All right.

11 THE PRESIDING OFFICER: Thank you, sir.

12 BY MR. VOLINSKY:

13 Q. Let me break that down for us. You  
14 were at 2.1, and he said 4.2 is where he would  
15 like to see it?

16 A. Yes.

17 Q. Double it, right?

18 A. Yes.

19 Q. We saw in the previous set of minutes  
20 Primex had double your member assets, right?

21 A. Yes.

22 Q. When Riemer was representing  
23 information to you about Anthem or any other Blue

1 Cross licensee, he represented that they would be  
2 at a NAIC minimum for 3.75?

3 A. At a minimum, yes.

4 Q. Did anyone ever check to see if that  
5 was accurate?

6 A. No, we relied on Peter Riemer to be  
7 accurate.

8 Q. If you were told that the NAIC level is  
9 actually 2.0, would you have ever heard that from  
10 Mr. Riemer? Do you remember that?

11 A. In between all of his discussions of  
12 RBC, he went through a -- you know, a list of  
13 points at which various regulatory action would  
14 have been, you know, possible to, you know, be  
15 taken. I don't know, like, one and a half the  
16 insurance probably could take over insurer, at 2  
17 they could require a plan for -- you know, for  
18 raising your RBC, which usually meant raising  
19 rates.

20 You know, this -- I thought this was a  
21 standard that Anthem set within its organization  
22 for its licensees, not -- not NAIC regulatory  
23 standards.

1           Q.       Okay.  So if this statement is what was  
2 presented to your board, this is the minimum level  
3 recognized by the NAIC, 3.75, either Riemer  
4 misstated, or the board minute is in error?

5                   MR. RAMSDELL:  Well, I object.

6                   THE PRESIDING OFFICER:  Excuse me,  
7 Mr. Andrews.  Mr. Ramsdell.

8                   MR. RAMSDELL:  I object to the  
9 characterization.  I think it's a fair reading of  
10 that statement where it says this is the minimum  
11 level recognized, it doesn't necessarily mean that  
12 that has -- that's the NAIC standard.

13                   Mr. Andrews has testified that that's  
14 what he was told that Anthem required for people  
15 it worked with.

16                   THE PRESIDING OFFICER:  That's what I  
17 understand his testimony to be.

18                   MR. RAMSDELL:  Okay.

19           A.       You know, it's possible that in -- in  
20 taking the minutes --

21                   MR. RAMSDELL:  I'm not sure there's a  
22 question pending right now either.

23                   THE PRESIDING OFFICER:  Mr. Andrews.

1 THE WITNESS: Excuse me?

2 MR. VOLINSKY: Wait for a question.

3 THE PRESIDING OFFICER: You weren't  
4 here for the first day when I compared this day to  
5 legislative hearings and the difference between  
6 the two. So I'm just going to say, one, please  
7 wait for a question, and if you need to expand, I  
8 will give you that opportunity.

9 THE WITNESS: Okay.

10 THE PRESIDING OFFICER: And, also, do  
11 your best to keep your voice up.

12 Please proceed, Mr. Volinsky.

13 MR. VOLINSKY: Thank you.

14 BY MR. VOLINSKY:

15 Q. Okay, so -- I'll drop this point.

16 Let's talk about this 2.1. And he'd like to see  
17 it at 4.2.

18 A. Yes.

19 Q. If you go up one paragraph, Mr. Riemer  
20 is here representative talking about a topic that  
21 was raised at a retreat, looking at member balance  
22 philosophy and risk capital as it's known to the  
23 rest of the world, my recommendation is about two

1 times what it is now.

2 A. Yes.

3 Q. And here he represents that HealthTrust  
4 traditionally had a members target to cover that  
5 risk corridor of 20 percent.

6 A. Yes.

7 Q. Which you were half the target at the  
8 time?

9 A. Yes.

10 Q. And that half equaled 2.1 RBC --

11 A. Yes.

12 Q. -- according to his calculation. And,  
13 so, this board had this discussion with Mr. Riemer  
14 about doubling its RBC to 4.2. It also had a  
15 discussion about how long it would take to get to  
16 4.2 in their plan?

17 A. Yes, that their understanding wasn't  
18 that it would happen in one year; eventually we  
19 would get there.

20 Q. And their understanding was that it  
21 would take about five years?

22 A. Okay.

23 Q. That's a question. Is that right?

1 A. If you say so. I don't --

2 Q. Okay, we'll get to it.

3 A. It may be in the minutes where they  
4 discussed five years, but -- but that sounds about  
5 right. They knew it wasn't going to be two years  
6 or three years.

7 Q. Peter Curro was a participant in this  
8 discussion; his name happens to be right here,  
9 right?

10 A. Yes.

11 Q. Bob Lloyd was the legal counsel at the  
12 time?

13 A. Yes.

14 Q. He asked how long it would take to get  
15 4.2.

16 THE PRESIDING OFFICER: Question?

17 BY MR. VOLINSKY:

18 Q. And Riemer responds in the next line it  
19 would take about five years. Does that help --

20 A. Yes.

21 Q. -- your memory on that point?

22 A. Yes. And that's at current trend  
23 rates.

1 Q. Current trend rates -- it's actually on  
2 two things, current trend rates and a 5 percent  
3 margin, right?

4 A. Yup.

5 Q. That 5 percent margin is the risk  
6 factor we were talking about this morning.

7 A. Yes.

8 Q. So if the company instituted a 5  
9 percent margin and trend rates stayed similar to  
10 what they were, then you would build this  
11 increased member balance over about a five-year  
12 period?

13 A. Yes.

14 Q. And we saw earlier that you were at 35,  
15 if you were doubling get to about 70 -- we have  
16 some charts from an earlier witness that included  
17 calculations of net assets.

18 If I suggested to you based on the  
19 financial statements you got to 70 by '06, is that  
20 consistent with your recall? 77, actually, in  
21 '06.

22 THE PRESIDING OFFICER: Excuse me for  
23 just a moment, Mr. Volinsky. No. 1, could you

1 cite what exhibit that is for those that can't  
2 see, and --

3 MR. VOLINSKY: Yup. Hang on. It is 6.  
4 BSR 6.

5 THE PRESIDING OFFICER: Thank you very  
6 much. Give us all a moment to get there, because  
7 we can't see. Wait, wait. Mr. Andrews, take a  
8 rest until I can catch up with you.

9 Okay, please proceed with your line of  
10 questioning.

11 MR. VOLINSKY: Yes.

12 THE PRESIDING OFFICER: Thank you.

13 BY MR. VOLINSKY:

14 Q. That's BSR 6 in a blowup form,  
15 Mr. Andrews, so you can see it here. And 2006 is  
16 when HealthTrust crossed the 70,000 mark to net  
17 assets -- did I say 70,000? 70 million mark, to  
18 actually have a 77 million in member balance?

19 THE PRESIDING OFFICER: Do you see  
20 that? Or is there a question there?

21 BY MR. VOLINSKY:

22 Q. Do you see that?

23 A. Yes, I do.

1 Q. Do you disagree with that?

2 A. Well, I'm just not sure about these.  
3 I -- I thought that that represented -- the  
4 60 million represented the so-called RBC figure.

5 Q. Okay, so you're pointing to a line  
6 called board designated?

7 A. Yes.

8 Q. Okay.

9 A. I believe so, yes. So it was  
10 substantial, so that obviously we did very well.

11 Q. Let me show you, this is 7. Let me  
12 show you the chart with '08 and '09. Let me just  
13 grab the exhibit.

14 MR. TILSLEY: It's 7.

15 THE PRESIDING OFFICER: Thank you. BSR  
16 7 for this next exhibit.

17 BY MR. VOLINSKY:

18 Q. Using the line that you were  
19 indicating, you believe board designated assets  
20 equals RBC, and would you agree with me that '08  
21 it's 68 million?

22 A. Yes.

23 Q. But above it there's something called

1       unrestricted, which is another 25.7 million?

2           A.       Yes.

3           Q.       And don't both of those get considered  
4       in calculating the RBC?

5           A.       I don't know. I don't know exactly how  
6       you calculate RBC. If I --

7           Q.       What was -- go ahead.

8           A.       If I were looking at this, I thought  
9       that -- I always thought that the 68 million was  
10       the board designation of an amount representing  
11       RBC, that the unrestricted, the 25.7 million, would  
12       be money that would be available to go back and  
13       rate credits or whatever. So I saw that, that was  
14       unrestricted, that was free, you know, surplus.  
15       That was my understanding.

16          Q.       I just want to follow the term you  
17       used. You used the term free surplus to mean  
18       unrestricted?

19          A.       I think so. Yeah, I mean money that  
20       wasn't designated for any purpose such as meeting  
21       the RBC financial security model of 4.2.

22          Q.       Wasn't all the member balance referred  
23       to as free surplus at one time?

1           A.       It may have been.

2           Q.       And wasn't there an instruction sheet  
3 that went out from your chief financial officer to  
4 town managers and the like instructing them that  
5 member balance wasn't really the measure of the  
6 strength of the organization, HealthTrust; that it  
7 was the ability to bring in premiums and match  
8 them to claims, do you remember that?

9           A.       I don't. I don't remember everything  
10 that went out.

11          Q.       That's okay.

12                   MR. VOLINSKY: May I see 199? LGC 199.

13 BY MR. VOLINSKY:

14          Q.       Stay right there. We'll come back to  
15 that book, that's why I'm telling you to stay  
16 there. 199. This is an LGC exhibit.

17                   THE PRESIDING OFFICER: Just give a  
18 moment for everyone to pull their copy.

19 BY MR. VOLINSKY:

20          Q.       This is an October '97 document from  
21 Sandal Keeffe, who was your chief financial  
22 officer at the time?

23          A.       Yeah.

1           Q.       Do you remember that?  And it was to  
2           city and town managers and superintendents,  
3           business managers, county administrators and the  
4           like?

5           A.       Yes.

6           Q.       I want to direct you to the second  
7           paragraph.  It should be noted, first stated that  
8           a focus on the member balance or free surplus of  
9           the trust is not the sole and certainly not the  
10          best measure of the trust's financial strength --  
11          I'll represent to you she's talking about  
12          HealthTrust here.  This term free surplus, same  
13          term you're using now?

14          A.       (Witness nods.)

15          Q.       Yes?

16          A.       Yes.

17          Q.       And this statement made by Ms. Keeffe,  
18          the financial officer, to all those managers and  
19          administrators that that's not the best measure of  
20          the trust's financial strength, do you agree with  
21          that?

22          A.       Yes.

23          Q.       And she goes on, the member balance

1 represents the funds remaining after it has set  
2 aside reserves, permission to pay claims and  
3 related costs of operations, the trust is fully  
4 funded, reverses in this case. In addition, the  
5 trust believes it has priced its products to  
6 remain fully funded and financially sound.

7 I want to ask you about that sentence.  
8 The trust believes it has priced its products to  
9 remain fully funded and financially sound. Do you  
10 understand that to mean setting premiums at a  
11 level so that claims and operation expenses can be  
12 covered?

13 A. Yes.

14 Q. This very next paragraph -- let me see  
15 if I can make this -- can you read that? That way  
16 I don't have to keep moving it for you.

17 A. Yes.

18 Q. The next paragraph Ms. Keeffe talks  
19 about anticipated and unanticipated reductions in  
20 free surplus, particularly in 1996. The  
21 anticipated came because the trustees wanted to  
22 reduce members' balance as required by 5:B.

23 Do you remember any of this?

1           A.        I remember it now that you've refreshed  
2 my recollection, but I don't remember the details  
3 at that time. I think that was responding to a  
4 news story about a lawsuit of a former trust  
5 manager who alleged that, you know, the trust was  
6 kind of on the financial verge of going over -- you  
7 know, going under, and, you know, that we were  
8 very -- in a very precarious position, and she was  
9 explaining to people that that wasn't the case.

10          Q.        Right. And you can see at the top  
11 there's reference to a Union Leader article.

12          A.        Uh-hum.

13          Q.        So your recall is accurate.

14          A.        Yeah.

15          Q.        Let me send you back to Exhibit 66,  
16 which is in front of you. If I can get to the  
17 first page of this document, it is on 176, and  
18 it's the board retreat minutes from July 2002.  
19 I'll let you get there.

20          A.        July 12th.

21          Q.        Yes, July 12th, sorry. And, again, in  
22 the typical fashion the board of trustees are  
23 identified, Mr. Curro is there. Consultants

1 attending are identified, and then staff present  
2 are identified, right?

3 And, now, let me move you into that  
4 document to page 178. And there begins a long  
5 section recounting a discussion about Primex and  
6 its financial position, right?

7 A. Yeah.

8 Q. Go to the next page.

9 A. 179?

10 Q. Yes, please. Peter Curro here happens  
11 to comment about knowing the true colors of  
12 Primex. This is the '02 timeframe. Do you  
13 understand what the true colors of Primex meant in  
14 that timeframe?

15 A. In that timeframe I guess I would infer  
16 that it meant now that we know what -- what they're  
17 proposed to do.

18 Q. And this is the time when they're about  
19 to challenge your healthcare program?

20 A. I believe so, yes.

21 Q. And next paragraph we have Bob Wheeler,  
22 who among other things, essentially looked at  
23 their financial statements, and they do what we

1 are not allowed to do, they are hoarding taxpayer  
2 money. Do you see where I am?

3 A. That's what he said.

4 Q. You were not in danger of insolvency as  
5 HealthTrust at the point in time when your board  
6 voted to double the RBC from 2.1 to 4.2, were you?  
7 Not in danger?

8 A. No, I don't think so.

9 Q. You weren't anywhere close?

10 A. No.

11 Q. I'm sorry, I can't hear.

12 A. In retrospect, apparently we weren't.

13 Q. I --

14 A. In retrospect apparently we weren't  
15 anywhere close --

16 Q. That's when you had 30 --

17 THE PRESIDING OFFICER: Time out.

18 Mr. Ramsdell.

19 MR. RAMSDELL: I don't believe he  
20 finished his answer.

21 THE PRESIDING OFFICER: I understand  
22 that. Mr. Volinsky, hold on just a minute.

23 MR. VOLINSKY: Yeah. No, I just was

1 saying go ahead and finish.

2 THE PRESIDING OFFICER: Well, we all  
3 get kind of in a tither. Mr. Andrews, go ahead  
4 and complete your answer, please. In retrospect.

5 A. In retrospect that seems to be the  
6 case, but we weren't -- you know, we didn't have  
7 the sense at the time that we were so strong that  
8 we could withstand the competition. I mean, that  
9 was -- that was just everybody's sense.

10 Q. Okay. Done?

11 A. Yes, done.

12 Q. All right, let me try and separate that  
13 a little bit. My question was did you and your  
14 board believe that you were in danger of  
15 insolvency in this timeframe, not whether you  
16 could compete against the Primex misuse of member  
17 balance.

18 So let me ask you the insolvency  
19 question so we're clear on that.

20 A. No.

21 Q. You and your board did not believe you  
22 were anywhere near insolvency at this point in  
23 time, did you?

1           A.       No.

2           Q.       And you had 30 or 35 million in member  
3 balance to make sure that wasn't going to happen  
4 at this time, correct?

5           A.       Yes.

6           Q.       And what your second part of the answer  
7 was, you didn't think you could compete with  
8 Primex unless you essentially doubled your member  
9 balance.

10          A.       Given that they had twice as much  
11 available as we did.

12          Q.       Right. So you were just trying to  
13 match their move in terms of member balance and  
14 come to a similar level of member balance, which  
15 happened to be twice what you had?

16          A.       We were trying to come to a financial  
17 security level, a RBC level of 4.2.

18          Q.       Right. Which happened to be double  
19 what you were?

20          A.       It happened to be double, but -- but my  
21 understanding was that -- or recollection was that  
22 4.2 wasn't adopted because, hey, that will double  
23 the amount that we have, and we'll be in equal

1 footing with them.

2 I think the RBC of 4.2 was Peter's  
3 recommendation, which we understood would take us  
4 about five years to get to based on current trend,  
5 you know, and -- and risk factor.

6 And that regardless of what position  
7 that put us in vis-a-vis Primex, 4.2 was a modest  
8 appropriate level to be at to ensure our financial  
9 security.

10 Q. Let me ask you this. We looked at the  
11 House bill that failed this morning.

12 A. Yes.

13 Q. Did Peter ever recommend doubling your  
14 member balance at any time before that House bill  
15 failed?

16 A. I don't recall that he did.

17 Q. Did anyone -- let's use the -- go  
18 forward a little bit. 2004 is when the subsidy  
19 starts for workers' comp. Before 2004, did anyone  
20 recommend doubling member balance except for this  
21 period of time here that's displayed in the board  
22 minutes that are up on the screen?

23 A. I don't honestly recall. That's not to

1 mean that somewhere in these thousands of pages of  
2 minutes there's a phrase in there that somebody  
3 says, hey, maybe we ought to double members'  
4 balance, but I don't recall.

5 Q. And you agree with me that the process  
6 of doubling member balance requires you to  
7 increase premiums to build that balance over time?

8 A. Well, increase premiums, reduce --  
9 reduce claims cost. The whole combination of  
10 factors; keep people well, you know.

11 Q. Was it in this period of time that your  
12 board members also questioned the ethics of Primex  
13 for using the member balance to subsidize other  
14 programs?

15 A. It may have.

16 Q. And was it during this period of time  
17 when your board members also questioned the  
18 scruples of Primex for using member balance to  
19 subsidize other programs?

20 A. I don't recall exactly what board  
21 members said on that -- you know, I suspect in the  
22 whole robust discussion of the whole thing as  
23 evidenced by ten years of minutes that somewhere

1 along the line they talked about that stuff.

2 Q. Let me ask you not to hold --

3 A. I wouldn't be surprised if you found  
4 it.

5 Q. I can show you. But let me ask you not  
6 to hold me to those specific words, unethical,  
7 unscrupulous.

8 A. All right.

9 Q. That sentiment, however it was  
10 expressed, was pretty commonly felt and expressed  
11 by your board in this '02, '03 timeframe about  
12 Primex and its process of hoarding public taxpayer  
13 money as member balance?

14 A. Yes.

15 Q. Do you remember your board also  
16 complaining that by hoarding member balance,  
17 Primex was doing for its municipal members what  
18 the members could not do for themselves, that is,  
19 keep kind of rainy day funds?

20 A. No, I don't. I think members could do  
21 that if they set up various kinds of trust funds.  
22 I know that -- I know one of our -- two of our  
23 board members -- John Bohenko talked about the

1 funds that they set up in Portsmouth to draw  
2 from -- you know, to make sure that, you know, any  
3 increases in health was -- you know, was kept as  
4 level as possible.

5 You know, they used it as a fund to  
6 offset, you know, premium increases to try to keep  
7 them on a gradual growth level.

8 And the other board member was Keith  
9 Burke, who was the superintendent of schools in  
10 Peterborough, and he said that they did that, too.  
11 And he said that's -- he said we ought to be  
12 telling members, you know, how to set up those  
13 accounts so they can take any, you know, extra  
14 money that they get, or if they have a savings --  
15 you know, because they have lower premiums one year  
16 than they did the year before, that they can put  
17 those savings in these accounts. But I don't  
18 remember that he said that Primex was doing that,  
19 or -- we did it.

20 Q. Okay. That's fine. Bohenko -- John  
21 Bohenko was from Portsmouth, is that right?

22 A. Yes.

23 Q. If I suggested that the term for this

1 kind of trust fund is a nonlapsing fund, does that  
2 ring a bell?

3 A. I guess so. I'm not -- I'm not very  
4 conversant with the financial management statutes  
5 for communities.

6 Q. Okay, so we'll use your term trust  
7 fund.

8 A. Okay, but nonlapsing funds or -- yeah.  
9 I know that communities and schools could set them  
10 up for a variety of reasons.

11 Q. Right.

12 A. Yeah.

13 Q. Including the reason to carry money to  
14 be used for health insurance premiums year to year  
15 where there were rebates or the insurance wasn't  
16 as expensive as expected, right?

17 A. I guess so, yeah.

18 Q. That's what you were just describing to  
19 us?

20 A. Yeah, yeah.

21 Q. Right? And so these trust funds, or  
22 nonlapsing funds, if that is the right term,  
23 allowance communities, in essence, to hold their

1 own surplus from one year to the next so that  
2 there aren't bounces in premiums that are  
3 unanticipated --

4 A. Yes.

5 Q. -- correct?

6 A. Yes.

7 Q. And as far as you understood, this was  
8 a legal, permitted way to handle rate  
9 stabilization from a municipality's viewpoint,  
10 correct?

11 A. Yes, because I had a -- you know, a  
12 leading city manager in the state and a leading  
13 school superintendent in the state actually doing  
14 it.

15 Q. Doing that?

16 A. Yeah.

17 Q. Do you remember, was Peter Loughlin  
18 Portsmouth's lawyer at the time?

19 A. I don't know. I don't know -- I don't  
20 know when he left there as the city attorney. I'm  
21 thinking he was the city attorney and then went  
22 into private practice, but I don't know the dates.

23 Q. Are they in about the same timeframe

1       that he was either city attorney or just moved to  
2       private practice as when Bohenko was describing  
3       this use of either trust funds or nonlapsing  
4       funds?

5             A.       No, Peter Loughlin may have been the  
6       city attorney when I came to New Hampshire in 1975.  
7       My best recollection is that he was gone, maybe, by  
8       1980 or '81, or whatever, and -- but at the time  
9       that John Bohenko was telling us about this as a  
10      board member, Peter Loughlin was long gone as a  
11      city attorney in Portsmouth, it was Bob Sullivan.

12            Q.       Okay.

13            A.       Who I think is now.

14            Q.       Current?

15            A.       Yeah.

16            Q.       Current, right. Bohenko's discussion  
17      of this trustees fund issue, is this about the  
18      same '02, '03 timeframe that we're talking about?

19            A.       I think so, yeah.

20            Q.       And Superintendent Burke, same  
21      timeframe?

22            A.       Yes.

23            Q.       Same concept?

1           A.       Yes.

2           Q.       Thank you. I want to switch topics, if  
3 I can, ask you about board participation.

4           A.       Yes.

5           Q.       You mentioned earlier you had 31 seats  
6 on the reorganized parent board of the Local  
7 Government Center when you were -- prior to your  
8 retirement, right?

9           A.       Yes.

10          Q.       And you had difficulty filling those  
11 seats over time?

12          A.       Yes.

13          Q.       And you also had some difficulty  
14 getting assigned members to attend meetings,  
15 didn't you? Appointed members, people who were on  
16 the board, to attend board meetings?

17          A.       Well, there were -- there were meetings  
18 when not everyone attended. I -- I don't know how  
19 much of a -- a problem. If we had 28 seats filled  
20 and, you know -- and we had 20 or 22 attending,  
21 that was great. You know, we understood that there  
22 were times when not everybody could make every  
23 meeting.

1                   But we had more difficulties, I think  
2 sometimes, in getting, you know, a full attendance  
3 at said committee meetings and stuff, especially if  
4 there were just more routine matters going on.

5                   But one of the reasons for getting --  
6 you know, when you look at the reorganization, we  
7 wanted to cut down number of meetings that people  
8 attended and had to attend. But, you know, we  
9 thought that with five or six meetings in a year  
10 that we'd get better attendance.

11                  Q.        Okay. Was this after you made the  
12 reduction to five or six meetings a year, was that  
13 when you had the discussions at the board level  
14 about creating an executive committee to counter  
15 the lack of attendance?

16                  A.        Creating what?

17                  Q.        An executive committee who could  
18 counter the lack of attendance and participation.

19                  A.        I don't -- I don't -- I don't recall  
20 that. I don't -- we didn't create an executive  
21 committee ultimately.

22                  Q.        Right.

23                  A.        But there may have been some discussion

1 about that amongst the board.

2 Q. Let me ask you, you had a board after  
3 the reorganization, about half of whom were  
4 appointed town administrators or business managers  
5 in school districts or superintendents, is that  
6 about right?

7 A. Yes, there were 12 municipal and 12  
8 school members, and amongst those, you know, we  
9 wanted to keep a, you know, decent, you know,  
10 representation of elected officials and appointed  
11 officials so it wouldn't all be run by an appointed  
12 official board.

13 Q. And the appointed officials were  
14 largely town managers or --

15 A. School business administrators.

16 Q. Administrators.

17 A. School superintendents.

18 Q. Right. Those appointed officials, it  
19 was set up so that their home employers, whether  
20 it be a town or a school district, paid their  
21 salary for the days they attended board meetings  
22 and committee meetings, isn't that right?

23 A. Yes. They -- the -- you know, that was

1       between the board member and their employee  
2       community or school district. You know, but I  
3       think that in most cases that their employers  
4       viewed serving on the board as service to the  
5       community, and, you know, other communities, just  
6       like, you know, some local official like Keith  
7       Hickey from --

8             Q.       Salem.

9             A.       -- Salem serving on the state  
10       retirement system board. I -- I assume that they  
11       continued to pay his salary while he goes up there.

12            Q.       But we don't know?

13            A.       I don't know.

14            Q.       Okay, so let's stay with what we know,  
15       okay?

16            A.       Sure.

17            Q.       It is true, is it not, that the home  
18       communities saw a benefit to having their  
19       administrators sit on the LGC board, and therefore  
20       were cooperative in continuing their pay when they  
21       showed up for board responsibilities?

22            A.       I don't know what they -- what they  
23       thought. I've got to assume that they thought it

1 was a benefit. We'd like to think it was because  
2 they thought it was a benefit to local government  
3 as a broad, you know, entity, other than service to  
4 the town of Salem.

5 Q. But, now, you didn't have this same  
6 kind of reception when it was nonadministrative  
7 employees who were sent to sit on your board, like  
8 union school teachers or police officers or a  
9 firefighter, they sometimes had difficulty getting  
10 paid for the day they spent on your board, isn't  
11 that right?

12 A. Yes. That -- that's true, and --

13 THE PRESIDING OFFICER: And that's the  
14 answer to the question that was asked.

15 Mr. Volinsky.

16 MR. VOLINSKY: Thank you.

17 THE PRESIDING OFFICER: Hold on just a  
18 minute. The question, if I -- if I can't follow  
19 the question because it is compounded four times,  
20 I'm going to stop, and I'm going to ask you to ask  
21 a question, break that question down --

22 MR. VOLINSKY: Yes, sir.

23 THE PRESIDING OFFICER: -- and give him

1 an opportunity to answer. The -- the ten-minute,  
2 seven-minute responses to your three-minute  
3 questions, we're not making much progress.

4 So, Mr. Ramsdell, you get your  
5 opportunity and he can finish his answer, but the  
6 question called for a yes or no answer, and this  
7 was my mean of trying to move the proceedings  
8 along.

9 MR. RAMSDELL: I understand, but I  
10 think you just said he could finish his answer.

11 MR. VOLINSKY: I think he did.

12 THE PRESIDING OFFICER: He can finish  
13 his answer.

14 MR. RAMSDELL: That's what I thought.

15 THE PRESIDING OFFICER: But I'm giving  
16 cautions to both in terms of let's be more  
17 precise.

18 MR. VOLINSKY: Okay.

19 BY MR. VOLINSKY:

20 Q. Are you finished?

21 A. Yes.

22 Q. With respect to the employee members,  
23 you sometimes had to put pressure on their

1 employers so that they could get paid, correct?

2 A. No, I wouldn't call it pressure. We  
3 sent a letter out in advance of their being  
4 appointed saying this is what we'd like to do, do  
5 you have any problems with that or objections, and  
6 we know that sometimes it's difficult for, you  
7 know, an employee, because of an employee's work  
8 schedule, to get off for a substantial part of a  
9 day and that, and so we'd hope that you would look  
10 at it, you know, along the same lines as you would  
11 if it were a manager or selectman or something, you  
12 know, and treat it with the same level of  
13 criticism.

14 We did say, because it was brought up  
15 to us by one of our union members, we said, you  
16 know, if you need to hire a replacement teacher or  
17 a replacement firefighter or something, then we  
18 would pay for that replacement.

19 THE PRESIDING OFFICER: I can see that  
20 that my admonition was effective, there's no doubt  
21 about that.

22 MR. VOLINSKY: On one of us.

23 THE PRESIDING OFFICER: Let's try to

1 phrase that questions, Mr. Volinsky, so that you  
2 can get sentence or two answer, and if you don't  
3 get what you want, that's why you're at the  
4 podium, and go fishing again.

5 MR. VOLINSKY: Thank you.

6 A. We were trying to --

7 MR. VOLINSKY: Time out.

8 THE PRESIDING OFFICER: Go ahead,  
9 Mr. Volinsky.

10 BY MR. VOLINSKY:

11 Q. I think in your answer you gave me the  
12 answer. Let me see if I can make it crisp. The  
13 Local Government Center at times reimbursed school  
14 districts for expenses it incurred so that a  
15 teacher could attend board meetings, correct?

16 A. Yes.

17 Q. The Local Government Center at times  
18 reimbursed a town so that its firefighter could  
19 attend a board meeting, correct?

20 A. Yes.

21 Q. The Local Government Center paid a town  
22 so its police officer could attend a board  
23 meeting, correct?

1           A.       Yes.

2           Q.       And in each of those instances, the  
3 employee was paid his or her salary from the town  
4 employer, correct?

5           A.       I assume so, yes. We -- you know, we  
6 only made the payment if the community wanted it.

7           Q.       Right. Isn't there not a prohibition  
8 in RSA 5-B against paying board members other than  
9 mileage and reimbursement for expenses?

10          A.       Well --

11          Q.       If you need it, I can --

12          A.       Well, if you say there's prohibition,  
13 okay, I understand that. We didn't look at that as  
14 paying board members. We looked at that as a -- as  
15 an expense to facilitate that board member being  
16 released from their duties and replaced at the  
17 local level so that it would effectuate their --  
18 their service on the board. But all the other  
19 board members where that wasn't necessary we didn't  
20 make any payments. Now, we knew that, for example,  
21 you know, Primex paid \$350 a day.

22          Q.       Primex isn't on trial here,  
23 Mr. Andrews.

1           A.       I know, but they did. You know, in  
2 addition to expenses they paid \$350 a day for their  
3 board members. One board member, the chair, took  
4 35,000 one year out of that program in per diem.

5                   We always prided ourselves on the fact  
6 that we didn't pay board members. In the letter  
7 that we'd sent out in recruiting board members or  
8 to their community or their school district, we'd  
9 say although we don't pay for service on the board,  
10 we do reimburse for mileage, and, you know, and buy  
11 meals. But we didn't look at those payments as --  
12 you know, as payments to the employee. We were  
13 trying to facilitate employee participation in the  
14 board.

15           Q.       And absent those payments, the sending  
16 town or sending school district wasn't paying the  
17 employee?

18           A.       You know, in some cases they did pay.  
19 You know, I -- you know, I don't think that -- I  
20 don't think that we reimbursed for a replacement  
21 for Steve Moultonbury, for example. My  
22 recollection was that it was one or two of the  
23 teachers, and it was a firefighter that I -- and

1 the firefighter was really costly.

2 THE PRESIDING OFFICER: Okay,  
3 Mr. Andrews.

4 BY MR. VOLINSKY:

5 Q. Whenever you're done.

6 THE PRESIDING OFFICER: Are you done  
7 with that answer?

8 THE WITNESS: I'm all set.

9 THE PRESIDING OFFICER: Okay. Let's  
10 try to make our answers, shall I say, more  
11 directive and not as narrative as they've been.  
12 So I've told Mr. Volinsky to sharpen his  
13 questions. I'm going to ask you, please, to  
14 respond in kind. Make him work, Mr. Andrews.

15 BY MR. VOLINSKY:

16 Q. Are you ready?

17 A. Go ahead.

18 Q. You agree with me that members pay  
19 money to participate in the risk pools?

20 A. Yes.

21 Q. Do you agree with me that pools are a  
22 common enterprise that the members' money goes  
23 into a common pot for that risk pool?

1           A.       Yes.

2           Q.       Do you agree with me that in the way  
3           that the risk pools are set up, members are led to  
4           believe that if the common enterprise produces  
5           profits or gains they will get the benefit of  
6           those profits or gains?

7           A.       Yes.

8           Q.       Thank you. Do you agree with me that  
9           the Local Government Center, when you were there,  
10          advertised that there could be a return on  
11          investment in the member payments through either  
12          dividends or rate crediting?

13          A.       No, because I -- I don't think that we  
14          ever held out that -- that there was -- that this  
15          was some kind of an investment vehicle; that they  
16          were purchasing insurance coverage, indemnity, and,  
17          you know, they understood that if -- if the whole  
18          pool's experience was good, and their experience,  
19          you know, contributed to that, that -- that they  
20          would benefit from that.

21                    But, you know, I didn't think that we  
22          held it out as an investment vehicle, it was held  
23          out as an insurance vehicle.

1           Q.       Except that you were exempt from all  
2 the insurance regulations, right?

3           A.       True.

4           Q.       So you're not an insurance carrier in  
5 this regard, correct?

6           A.       True.

7           Q.       And you're exempt because you wrote the  
8 litigation that was adopted in '87 that way?

9           A.       Yes.

10          Q.       Actually, you didn't designate any  
11 regulatory authority in the 1987 legislation, did  
12 you?

13          A.       No, because the regulatory --

14          Q.       Thank you.

15                    THE PRESIDING OFFICER:  Let him  
16 explain.  Go ahead, Mr. Andrews.

17          A.       Regulatory authority that we -- that  
18 you -- that we would expect to use didn't want any  
19 part of it.

20                    THE PRESIDING OFFICER:  Okay.  Thank  
21 you.

22 BY MR. VOLINSKY:

23          Q.       Let me refer you to LGC Exhibit 209.

1 I'll put it up on the screen for you, but  
2 everybody else --

3 THE PRESIDING OFFICER: Are you going  
4 to be with it for long?

5 MR. VOLINSKY: No.

6 THE PRESIDING OFFICER: Okay, go right  
7 ahead to the Elmo, please.

8 BY MR. VOLINSKY:

9 Q. This is LGC 239. Jonathan Steiner, do  
10 you remember him as an employee of the --

11 MR. RAMSDELL: If I can object.

12 THE PRESIDING OFFICER: Mr. Ramsdell.

13 MR. RAMSDELL: I see the date on this  
14 is March 2010, and there's been plenty of  
15 testimony that he retired in September of '09. I  
16 don't know how he's being asked about something  
17 that took place in March of 2010.

18 MR. VOLINSKY: Good point.

19 THE PRESIDING OFFICER: I don't know  
20 what the question is, so I don't know if the  
21 question is proper or not. Do you have a  
22 question, Mr. Volinsky?

23 MR. VOLINSKY: Yeah, I do.

1 THE PRESIDING OFFICER: And,  
2 Mr. Andrews, pause until I rule on this question.  
3 Thank you. Go ahead, Mr. Volinsky.

4 THE WITNESS: It's kind of fuzzy --

5 MR. VOLINSKY: Yeah, I'll get it for  
6 you.

7 THE PRESIDING OFFICER: Mr. Andrews,  
8 we'll get to you.

9 BY MR. VOLINSKY:

10 Q. This concept where I've put the pen  
11 marks, Michael's right, this is a 2010 document.  
12 I want to ask you, you were aware of this concept  
13 existing while you were in place. And that  
14 concept is pools are not for profit, but they take  
15 premiums and invest them as well, just like  
16 profit -- for-profit insurance companies.

17 Did your -- LGC, while you were there,  
18 take premiums and invest them just like insurance  
19 for-profit companies did?

20 A. Yes, we did.

21 THE PRESIDING OFFICER: Hold on. He  
22 asked him when he was there did they do this  
23 practice. That's what he's asking him. Go ahead.

1                   MR. RAMSDELL: My objection is the  
2 question is misleading because if the question is  
3 read back, it talks about investing profits when  
4 the very next sentence says, however, the profits  
5 are used to reduce rates and offer training and  
6 safety programs to help reduce claims risks and  
7 injuries. Not exactly turning a profit for an  
8 investment. I think the question is misleading.

9                   THE PRESIDING OFFICER: Well, would you  
10 like to have the question read back, is that your  
11 question? Your objection is it's misleading.

12                  MR. RAMSDELL: That's correct. If  
13 he'll read the next sentence and amend the  
14 question, that way I have no problem.

15                  THE PRESIDING OFFICER: Okay, I will  
16 tell you, I'm not going to have the attorneys  
17 testifying for the rest of the afternoon, you're  
18 both experienced people. So taking things out of  
19 context not only, if you will, causes the tribunal  
20 problems, but it is I who have to understand to  
21 make the decision.

22                  But in terms of witnesses who you're  
23 asking to recall things of years ago, it makes it

1 very difficult on them, and, in fact, in my  
2 opinion, unfair on them, particularly when we  
3 follow a practice of selecting a particular  
4 sentence, not taking it in context, and not  
5 allowing the witness to read, if you will, the  
6 paragraphs or the statements before.

7 We have had this discussion previously  
8 in informal conferences with respect to exhibits  
9 that been submitted to me, and I cautioned at that  
10 time that when you're submitting an exhibit to me  
11 of one page of someone's deposition, I would  
12 appreciate the courtesy of a couple of pages  
13 either side of it so that I might read it in  
14 context.

15 That being said, the number of this  
16 exhibit is what number again, please?

17 MR. VOLINSKY: 209. LGC.

18 THE PRESIDING OFFICER: Okay. Do you  
19 have that in front of you, Mr. Andrews?

20 MR. VOLINSKY: No, I have it --

21 THE PRESIDING OFFICER: No, no, no. Do  
22 you have it in front of you?

23 THE WITNESS: No.

1 MR. VOLINSKY: No.

2 THE PRESIDING OFFICER: Can we provide  
3 it to him?

4 MR. VOLINSKY: We can.

5 THE PRESIDING OFFICER: Because the  
6 movement of the screen, and actually reading  
7 sentences out of order -- which has become  
8 somewhat of an occurring event this afternoon when  
9 questioning where we read the fifth line in a  
10 paragraph and then go back to the third is also  
11 confusing.

12 So let's take this opportunity in the  
13 afternoon to get the full document in front of the  
14 witness, let him see the line you wish to draw his  
15 attention to, and let him then knowledgeably  
16 testify.

17 MR. VOLINSKY: You know what?

18 THE PRESIDING OFFICER: You're going to  
19 withdraw.

20 MR. VOLINSKY: Let me just withdraw.

21 THE PRESIDING OFFICER: Thank you very  
22 much.

23 MR. VOLINSKY: I'll go to a different

1           topic.

2                           THE PRESIDING OFFICER:   Okay.   But the  
3   message still holds, okay, gentlemen?

4                           MR. VOLINSKY:   The message is received,  
5   but you had also just told me to break down my  
6   questions into smaller pieces, and that's what I  
7   was trying to do.

8                           THE PRESIDING OFFICER:   I tell you,  
9   Mr. Volinsky, I'm not going to argue with any  
10  counsel.

11                          MR. VOLINSKY:   That's fine.

12                          THE PRESIDING OFFICER:   Okay?

13                          MR. VOLINSKY:   I hear you.

14                          THE PRESIDING OFFICER:   So if you're  
15  prepared to move on, then, fine, move on.

16  BY MR. VOLINSKY:

17                          Q.           So staying on this investment topic,  
18  you agree with me that premiums are invested in  
19  common funds that are handled by an investment  
20  manager during the time you were at LGC?

21                          A.           Yes.

22                          Q.           And if those investments result in a  
23  positive outcome, the members receive a benefit

1 from that positive outcome?

2 A. Yes.

3 Q. And if it results in a negative  
4 outcome, then they suffer a negative detriment,  
5 correct?

6 A. Yes.

7 Q. In other words, the money they pay in  
8 that's invested is subject to the risk of the  
9 investments, correct?

10 A. Yes.

11 Q. LGC has never, to your knowledge,  
12 registered -- well, let me ask one preliminary  
13 question.

14 The contract by which members join LGC,  
15 those are called participation agreements, are  
16 they not?

17 A. Yes. Participation in the insurance  
18 program.

19 Q. Yeah, that's what I mean.

20 A. Yeah.

21 MR. RAMSDELL: May we approach the  
22 bench?

23 THE PRESIDING OFFICER: Mr. Ramsdell,

1       sure. Surely. Lead counsel from any other?

2                   MR. RAMSDELL: No, we only need the two  
3 of us at this point.

4                   (Discussion off the record.)

5                   THE PRESIDING OFFICER: We'll take a  
6 short break, our afternoon break, for about ten  
7 minutes.

8                   (Recess taken.)

9                   THE PRESIDING OFFICER: Good afternoon,  
10 ladies and gentlemen. We've returned from the  
11 afternoon's recess; Mr. Andrews is still on the  
12 stand continuing under questioning by Mr. Volinsky  
13 for the Bureau of Securities Regulation.

14                   Mr. Andrews, I'll try to remind you  
15 from time to time to keep your voice up, if you  
16 would. These microphones that you see, they do  
17 not amplify, they merely record. So it's not that  
18 you're doing anything wrong, it's just that we're  
19 getting long in the tooth, and we tend to drop an  
20 octave and mumble.

21                   With that start, Mr. Volinsky, and a  
22 return to the solemnity of matters at hand, please  
23 continue.

1 BY MR. VOLINSKY:

2 Q. Let me ask you a couple of more  
3 questions on the investment issues; some will seem  
4 obvious, just respond directly if you can.

5 The participation agreements that are  
6 signed by members, they are not registered as  
7 securities in the state of New Hampshire, are  
8 they?

9 A. No.

10 Q. When members sign up through execution  
11 of a participation agreement, it's usually the  
12 executive executor, either you or later  
13 Ms. Carroll who is the counter signatory, is that  
14 right?

15 A. Yes.

16 Q. The form of participation agreement, is  
17 that reviewed by and approved by the board from  
18 time to time as it gets changed?

19 A. If it got changed, I mean, the outside  
20 legal counsel would consult on that and draft --  
21 and actually routinely drafted it.

22 Q. Yup.

23 A. And if the board wanted to make any

1 changes in it, they would ask him to draft changes.

2 Q. But if the legal counsel suggested a  
3 form of agreement, he suggests that to the board,  
4 does he not?

5 A. Yes.

6 Q. And the board accepts his suggestions  
7 or makes changes, whatever?

8 A. Yes.

9 Q. Did you ever consult with legal counsel  
10 as to whether participation in the -- any of the  
11 risk pools constituted a securities issue in terms  
12 of economic securities, not safety?

13 A. No, I never did.

14 Q. I take it then that under your  
15 leadership the Local Government Center never  
16 disclosed to any member that the participation  
17 agreements were unregistered securities; they  
18 never said that to anyone?

19 MR. RAMSDELL: Object.

20 THE PRESIDING OFFICER: Okay,  
21 Mr. Ramsdell.

22 MR. RAMSDELL: If he's only asking did  
23 you ever say it to anyone, it's a different

1 question if he's asking did you disclose. One  
2 asks for a legal conclusion.

3 THE PRESIDING OFFICER: Understood.  
4 Your objection is granted. Mr. Volinsky, please  
5 rephrase your question.

6 A. I never said to anyone --

7 THE PRESIDING OFFICER: Wait a minute.  
8 Mr. Volinsky, please rephrase your question.

9 BY MR. VOLINSKY:

10 Q. Did you ever tell anyone while you were  
11 employed by LGC that these participation  
12 agreements were unregistered securities?

13 A. No.

14 Q. Did you ever direct any employee while  
15 you were employed there to tell anyone that  
16 participation agreements were unregistered  
17 securities?

18 A. No.

19 Q. Have you ever held a securities  
20 license?

21 A. No.

22 Q. To your knowledge did any of your  
23 subordinates while you were still employed at LGC

1 hold a securities license?

2 A. No.

3 Q. And I should be more clear, when I say  
4 a securities license, a license to sell  
5 securities.

6 A. No, because we never dreamed we were  
7 selling securities.

8 Q. I understand. I asked you a number of  
9 questions about using HealthTrust money to  
10 subsidize workers' comp. Do you remember those  
11 questions?

12 A. Yes.

13 Q. To your knowledge, did the Local  
14 Government Center ever get written authorization  
15 from its HealthTrust members to use HealthTrust  
16 funds to subsidize workers' compensation, written  
17 authorization?

18 A. No.

19 Q. Okay. Let's switch to the document  
20 that I gave you on the break, asked you to read in  
21 advance.

22 MR. VOLINSKY: I'd ask that this  
23 document be marked as the next numbered exhibit

1       which would be 73. I have one extra. I gave  
2       Brian extras.

3                   MR. RAMSDELL: I've got one. You gave  
4       me one.

5                   MR. VOLINSKY: No, Steve. Someone give  
6       Steve a copy.

7                   MR. HOWARD: Can someone give me a  
8       copy, too?

9                   MR. VOLINSKY: I gave them all to  
10      Brian. So I would move that this be marked and  
11      admitted as 73.

12                  THE PRESIDING OFFICER: Okay, give  
13      these people an opportunity to take a look at  
14      something.

15                  MR. RAMSDELL: I have no objection.

16                  THE PRESIDING OFFICER: All right, no  
17      objection. Any objection from other counsel?  
18      Very good, then it's admitted as BSR 73.

19      Certificate of merger for both LGC HT, LLC and LGC  
20      PLT, LLC, both stamped filed June 27, 2003.

21                  (BSR 73 was marked and admitted into evidence.)

22      BY MR. VOLINSKY:

23                  Q.       Let me swap so that you have the

1 official copy. You said earlier in your testimony  
2 that you were unaware of a Delaware registration  
3 and merger of the LGC -- what became -- let me  
4 rephrase it.

5 You were unaware of the Delaware  
6 involvement in the reorganization of the  
7 HealthTrust and Property/Liability Trust into what  
8 became the Local Government Center, correct?

9 A. I didn't recall that, that's correct.

10 Q. Okay, I'll accept that. Exhibit 73,  
11 which is in front of you, is a certificate of  
12 merger, is it not?

13 A. Yes.

14 Q. And it's dated as filed as June 27,  
15 '03?

16 A. Yes.

17 Q. And your signature appears on the  
18 document, does it not?

19 A. Yes.

20 Q. And I think Mr. Lloyd -- there's  
21 another signature by you on the second page as the  
22 member. So that's four signatures --

23 A. Yes.

1           Q.       -- by you?  What you're signing -- what  
2           you were signing was the merger of a Delaware  
3           limited liability company and a New Hampshire  
4           limited liability company, is that correct?

5           A.       Yes.

6           Q.       This one happens to be HealthTrust.  
7           This one happens to be Delaware, New Hampshire,  
8           property/liability, correct?

9           A.       Yes.  Yeah.

10          Q.       And the property/liability received  
11          date is June 27, the same as the filing date --

12          A.       Yes.

13          Q.       -- June 27.  Thank you.  Let me take  
14          that back.

15                   Exhibit 14, please.  It would be in  
16          this book here.  I'll get you there.  Exhibit 14;  
17          BSR 14.  And, actually I'm going to ask you one  
18          question about 14, and then virtually the same  
19          question about 15, okay?

20                   14 is your employment contract with LGC  
21          for the timeframe of June '03 to June '08,  
22          correct?

23          A.       Yes.

1           Q.       Then if you'll turn the page, 15 is --  
2       sorry -- your employment agreement. This time --  
3       where is it? There it is -- from the expiration  
4       of 14 until December 31 of '09, right?

5           A.       Yeah.

6           Q.       And then if you'll go just one more to  
7       16, and instead of staying through the end of  
8       December '09, for personal reasons you decided to  
9       leave in September of '09, correct?

10          A.       Yes.

11          Q.       And Exhibit 16 is that early  
12       termination agreement, correct?

13          A.       Yes.

14          Q.       Part of -- that's all with those  
15       agreements.

16          A.       Excuse me?

17          Q.       That's all with those agreements, so  
18       you don't have to worry about them.

19                    But part of your agreement in leaving  
20       the LGC was that you would receive 20,000 a year  
21       for five years, is that not right?

22          A.       That is correct.

23          Q.       And as part of the settlement with the

1 Bureau of Securities -- well, let me ask it this  
2 way. You've already received three of those  
3 \$20,000 payments?

4 A. Yes.

5 Q. And as part of the agreement with the  
6 Bureau of Securities you've agreed to return one  
7 \$20,000 payment?

8 A. Yes, this year's payment.

9 Q. I was just going to ask that. That's  
10 the payment that you received during the pendency  
11 of this litigation?

12 A. Yes.

13 Q. And you've agreed not to accept the  
14 next two \$20,000 installments, correct?

15 A. That's correct.

16 Q. You're a member of the Local Government  
17 Center's defined pension benefit plan, correct?

18 A. Yes.

19 Q. And you receive benefits through that  
20 plan currently?

21 A. Yes.

22 Q. You also have a second retirement plan  
23 through the Local Government Center, do you not?

1           A.       Yes.

2           Q.       I forget what that's called.

3           A.       It's a section 457 plan, under 547 of  
4 the code.

5           Q.       Thank you.

6           A.       That's been in existence since, oh,  
7 late 70s.

8           Q.       Right.

9           A.       And -- and LGC participation in any  
10 funding of that was terminated when the defined  
11 plan took effect.

12          Q.       Right. So the 457 was in place when  
13 the defined benefit was adopted?

14          A.       Yes, but they never overlapped -- well,  
15 they never overlapped in the sense of LGC making  
16 contributions to both.

17          Q.       I understand.

18          A.       One stopped.

19          Q.       You have retirement benefits from both?

20          A.       Yes.

21          Q.       You are aware that, mostly during your  
22 stay as executive director, but it also continued  
23 after, that the Local Government Center was

1           involved in litigation with the Professional  
2           Firefighters of New Hampshire, correct?

3           A.       Yes.

4           Q.       And the kernel of that litigation is  
5           the firefighters sought to apply the right to know  
6           law to the Local Government Center, and the Local  
7           Government Center resisted that application.

8           A.       Yes.

9           Q.       Fair statement?

10          A.       Yes.

11          Q.       And the Local Government Center claimed  
12          it was not subject to the right to know law  
13          because it was not that kind of a governmental  
14          agency, correct?

15          A.       That was our understanding, yes.

16          Q.       Prior to that litigation you had  
17          already used the right to know law to demand  
18          documents from Primex, had you not?

19          A.       Yes.

20                   MR. VOLINSKY: Thank you. If I can  
21          have one second.

22                   THE PRESIDING OFFICER: Sure.

23                   MR. VOLINSKY: That's all I have.

1 THE PRESIDING OFFICER: Very good.

2 MR. RAMSDELL: I'm going to go first  
3 for the respondents, Mr. Mitchell.

4 THE PRESIDING OFFICER: I'm sorry,  
5 you're going to go first?

6 MR. RAMSDELL: You had been asking  
7 about the order in which people were going to ask  
8 questions.

9 THE PRESIDING OFFICER: That was before  
10 you were dismissed. You don't have -- there's no  
11 case on Mr. Andrews right now.

12 MR. RAMSDELL: I'm going on behalf of  
13 the LGC entities.

14 THE PRESIDING OFFICER: Understood.  
15 Just trying to clarify it.

16 MR. RAMSDELL: Absolutely.

17 CROSS-EXAMINATION

18 BY MR. RAMSDELL:

19 Q. John, we're going to be at this a  
20 while, and I'm going to ask you about a number of  
21 documents. I'm going to give you some documents  
22 in a moment, but, first, while you have that  
23 employment agreement out, will you take a look at

1 tab BSR Exhibit No. 14.

2 Do you have that in front of you?

3 A. Yeah.

4 Q. Thanks. You were asked about being  
5 paid \$20,000 per year over a five-year period.  
6 That is in section 7 of the agreement, correct?

7 A. Yes.

8 Q. And what you were being paid for is in  
9 7.1, there's an employment restriction with a list  
10 of about ten things that following your retirement  
11 you could not do for a five-year period, correct?

12 A. Yes.

13 Q. And those are all things that with your  
14 expertise, having run the Local Government Center,  
15 the New Hampshire Municipal Association, might  
16 have some value to law firms or other businesses  
17 in the state of New Hampshire in particular,  
18 correct?

19 A. Yes.

20 Q. There is also a component in there that  
21 says that you must be available for any consulting  
22 that they would ask you -- that the Local  
23 Government Center would ask you to do during that

1 five-year period. Is that correct, also?

2 A. Yes.

3 Q. And have you been available for that  
4 purpose?

5 A. Yes.

6 Q. You haven't been asked to do any work,  
7 correct?

8 A. Yes.

9 Q. But have you maintained the employment  
10 restriction that prohibits you from working in  
11 exchange for the pay?

12 A. Yes.

13 Q. Let me go back to at the very beginning  
14 of this employment agreement in paragraph 1 --

15 A. Excuse me, can I just expand on that?

16 Q. No.

17 A. Okay.

18 Q. You've answered my question. John,  
19 listen to me for a minute, all right? I don't  
20 mean to give you a hard time, but we've got a lot  
21 of things to get through, and I know that  
22 Mr. Mitchell wants to continue this hearing as  
23 expeditiously as possible within due process, and

1 I'm going to try and do that.

2 So if I come across as abrupt or rude,  
3 I apologize in advance, but I'm going to cut you  
4 off if you're not responsive to my questions,  
5 okay?

6 A. All right.

7 THE PRESIDING OFFICER: And,  
8 Mr. Andrews, if I feel that I need further  
9 explanation, to save time, I will allow you to  
10 continue as opposed to asking questions at the end  
11 of the day. Do you understand that?

12 THE WITNESS: Yes, sir.

13 THE PRESIDING OFFICER: Go ahead,  
14 Mr. Ramsdell.

15 MR. RAMSDELL: I'm sorry, if I'm going  
16 to project something through that, do I need that  
17 as well? Okay, no, I don't need that on. Sorry,  
18 I'm not a technical master.

19 BY MR. RAMSDELL:

20 Q. The very first numbered paragraph, the  
21 employment terms, runs from June 1, 2003 until  
22 June 30th, 2008, correct?

23 A. Correct.

1 Q. That's a five-year period, correct?

2 A. Correct.

3 Q. At the time that you entered into this  
4 employment agreement with the Local Government  
5 Center, this five-year agreement in June of 2003,  
6 was it your intention to retire in 2008?

7 A. No.

8 Q. So it's just a five-year agreement  
9 because it was a five-year agreement, correct?

10 A. That's correct. That's what the board  
11 asked me for.

12 Q. BSR 15, the extension of the agreement,  
13 it goes from -- it goes -- it continues the first  
14 agreement until December 31, 2009, correct?

15 A. Correct.

16 Q. Was it your intention when you signed  
17 this extension to retire December 31, 2009?

18 A. Yes.

19 Q. The provision about the \$20,000 a year  
20 in paragraph 7, that is exactly the same, no  
21 greater, no lesser than the original employment  
22 agreement when you had not intended to retire, is  
23 that correct?

1           A.       That's correct, the only difference --

2           Q.       Thank you. Thank you. Let me just get  
3 these out of the way.

4                   MR. RAMSDELL: Mr. Mitchell, I have a  
5 number of exhibits that I'm going to ask  
6 Mr. Andrews about. What I've done is -- when I  
7 say I've done, of course someone else was kind  
8 enough to actually put the labor into putting  
9 together a binder of one copy of each of the  
10 exhibits to you.

11                   They are in numerical order, not the  
12 order I intend to use them in, because I didn't  
13 know the order I was going to use them in enough  
14 time, but I will call the exhibits out by number,  
15 and you have one copy of all of them.

16                   THE PRESIDING OFFICER: I have one copy  
17 of all of them?

18                   MR. RAMSDELL: You do, in the binders.

19                   THE PRESIDING OFFICER: Are they  
20 anywhere else?

21                   MR. RAMSDELL: Yes, you have copies in  
22 the boxes. But here's what I also have. I  
23 have -- this morning we liberated a folder of each

1 of the exhibits I intend to use from one of your  
2 boxes that has two copies of it in there.

3 I intend to give Mr. Andrews the folder  
4 and ask him about it, and when I do, I'm happy to  
5 give your law clerk the second copy that's in  
6 there. And I promise you at the end of the day we  
7 are going to put these all back together and put  
8 them exactly where we got them from, and I  
9 explained that this morning.

10 THE PRESIDING OFFICER: Yes, you did.  
11 We'll share this one.

12 MR. RAMSDELL: Okay. If that's your  
13 preference, that's fine.

14 THE PRESIDING OFFICER: We can stop the  
15 running and pulling from anywhere else. We're set  
16 to go up here.

17 MR. RAMSDELL: Oh, know, I'm not going  
18 to pull them now. I've got them all pulled. I'm  
19 just saying -- okay.

20 THE PRESIDING OFFICER: We don't have  
21 to.

22 MR. RAMSDELL: You have every exhibit  
23 right there by number.

1 MR. VOLINSKY: That's okay.

2 MR. RAMSDELL: May I have Exhibit 232,  
3 please?

4 BY MR. RAMSDELL:

5 Q. John, I believe I've handed you a group  
6 of exhibits. The top one is 232.

7 A. Yes.

8 Q. Would you take a look at LGC 232,  
9 please?

10 A. Yes.

11 Q. You were asked this morning about  
12 helping to write what ultimately became RSA 5-B  
13 and appearing at and testifying before the  
14 legislature when it was enacted.

15 I'm just going to -- I just want to  
16 demonstrate, these are the minutes, you were asked  
17 about some of them this morning. Would you agree  
18 with me that the very first person who appears to  
19 have spoke here was a senator, Edward DuPont, is  
20 that correct?

21 A. Yes.

22 Q. And right in the middle of his  
23 testimony he said -- he tried to explain the

1       purpose of the legislation, I think this is a  
2       critical point because particularly in the area of  
3       property and liability, the issue is not being  
4       able to provide more cost effective insurance, but  
5       is being able to provide insurance, period. Do  
6       you see that?

7             A.       Yes.

8             Q.       And is that consistent with your  
9       recollection of why the risk pools were started  
10      not long before this, is that the municipalities  
11      were actually having difficulty not just getting  
12      affordable insurance, but getting insurance at  
13      all?

14            A.       Yes.

15            Q.       Would you please turn to page 2 of this  
16      exhibit, John.

17                    THE PRESIDING OFFICER:   This exhibit  
18      number, again, Mr. Ramsdell, is what?

19                    MR. RAMSDELL:   It's LGC 232.

20                    THE PRESIDING OFFICER:   And that's in  
21      this black book?

22                    MR. RAMSDELL:   It should be in one of  
23      the black books I gave you. It should be in

1 order, and it should be tab 232.

2 THE PRESIDING OFFICER: Please proceed.

3 MR. RAMSDELL: Thank you.

4 BY MR. RAMSDELL:

5 Q. On the second page at the very bottom,  
6 the last person to speak who's identified is Sue  
7 Puddington, executive director of the  
8 New Hampshire School Boards Insurance Trust. Do  
9 you remember Ms. Puddington?

10 A. Yes.

11 Q. And was she, in fact, the executive  
12 director of the New Hampshire School Boards  
13 Insurance Trust at this time?

14 A. Yes.

15 Q. In her testimony she identified her  
16 trust as having been in operation as a separate  
17 nonprofit corporation since 1979. She explained  
18 that the New Hampshire School Boards Insurance  
19 Trust runs two pools already, health area and  
20 unemployment compensation area. We are now in the  
21 process of accepting applications for property and  
22 casualty programs.

23 Were you aware at the time that

1 New Hampshire School Boards Insurance Trust ran  
2 more than one risk pool?

3 A. Yes.

4 Q. You mentioned this morning that the  
5 insurance commissioner actually didn't want the  
6 regulation of this statute. Is that -- do I  
7 recall your testimony correctly?

8 A. That's correct.

9 Q. On page 3 of this exhibit there's an  
10 entry for a Commissioner Louis Bergeron. Was he  
11 the insurance commissioner at the time?

12 A. Yes.

13 Q. And he actually testified and said this  
14 bill as you will hear was borne out of frustration  
15 experienced by the municipalities because they  
16 could not buy coverage, correct?

17 A. That's correct.

18 Q. Can I ask you to turn to Exhibit 323.

19 MR. RAMSDELL: May I please have 323.

20 BY MR. RAMSDELL:

21 Q. Do you have the exhibit, John?

22 A. Yes.

23 Q. You can tell from the very first page

1 of the exhibit that this is an RSA 5-B filing made  
2 with the office of the Secretary of State dated  
3 January 6, 1988 on behalf of the New Hampshire  
4 School Boards Insurance Trust, is that correct?

5 A. Yes.

6 Q. Would you turn to page 4 of the  
7 exhibit, please.

8 A. Yes.

9 Q. I just want to -- in their articles of  
10 agreement, under article 2, paragraph numbered 1,  
11 they state that their object is to establish a  
12 trust to provide unemployment compensation  
13 insurance and other insurances that reduce costs  
14 to members, is that correct?

15 A. Yes.

16 Q. I'm going to ask you to turn to --  
17 there are Bates numbers at the bottom. If you can  
18 turn to 15676, please.

19 A. I have it.

20 Q. And, in fact, in their filing they  
21 describe that 1986 was the third year of  
22 equilibrium for their unemployment compensation  
23 pool, and in the very next paragraph they also

1 describe their experience over the last three  
2 years for their healthcare pool, is that correct?

3 A. That's correct.

4 Q. I'd ask you to turn to the next-to-last  
5 page of the exhibit, please.

6 A. That's page 682?

7 Q. That's correct. And I'm just going to  
8 ask, at the very end they give the financial  
9 summary that's supposed to be filed and it says,  
10 our projection of the trust fund balance, a  
11 \$46,902 surplus as of 6/30, '87 reflects continued  
12 favorable experience of the group as a whole. We  
13 suggest that this surplus be utilized as an  
14 additional credit to premium, correct?

15 A. Correct.

16 Q. And that's a 5-B filing back in 1988,  
17 correct?

18 A. Yes, that is from their actuary.

19 MR. RAMSDELL: May I have Exhibit 324,  
20 please.

21 BY MR. RAMSDELL:

22 Q. And, John, I'm asking you, when you're  
23 finished with an exhibit, just put it back in the

1 folder and move it up there, and then when we're  
2 done, I'll take it away. 324.

3 A. 324, correct?

4 Q. And, again, looking at the first page  
5 of the exhibit we can tell that this is an RSA 5-B  
6 filing made by New Hampshire School Boards  
7 Insurance Trust, Inc., on October 18, 1988,  
8 correct?

9 A. Yes.

10 Q. By the way, would you look at the third  
11 page of the exhibit, please.

12 A. Yes.

13 Q. That is a listing of the board of  
14 directors for the New Hampshire School Boards  
15 Insurance Trust, correct?

16 A. Yes.

17 Q. One board of directors, correct?

18 A. Yes.

19 Q. Which, to your recollection, that's all  
20 they ever had, including the year before when 5-B  
21 was passed?

22 A. To my knowledge, they never had more  
23 than one board.

1           Q.        Would you look at the very next page.  
2           And, again, there's a financial summary that is  
3           near the end of the exhibit, and what it says is  
4           our projection of the trust financial balance,  
5           \$107,697 as of 6/30/88 reflects continued  
6           favorable experience of the group as a whole. We  
7           suggest that the fund balance be utilized as a  
8           rate stabilization fund. Is that correct?

9           A.        Yes.

10          Q.        John, if you'd move to the next exhibit  
11          that I've given you, which is Exhibit 273.

12                   MR. RAMSDELL: May I have 273, please.

13          A.        I have it.

14          Q.        Now, this is not a 5-B filing. Can you  
15          tell us what this is?

16          A.        This is our -- our ruling -- our tax  
17          exempt ruling from the Internal Revenue Service  
18          giving us a Section 115 tax status.

19          Q.        And when you say us, it's the  
20          New Hampshire Municipal Association Health  
21          Insurance Trust in 1987?

22          A.        Yes.

23          Q.        At the end of the first page going into

1 the second page, what the IRS letter says under  
2 the bylaws of the trust, the income of the trust  
3 is earmarked for the provision of health insurance  
4 protection, for the payment of benefits, or to be  
5 returned to the members who made the contributions  
6 in proportion to the amounts paid on behalf of the  
7 employees of such member in that year. The return  
8 may be made by means of a reduction of  
9 contributions due in the subsequent year.

10 Upon dissolution of the trust and after  
11 the satisfaction of all of the obligations of the  
12 trust, the member municipalities are entitled to a  
13 return of the remaining trust assets in proportion  
14 to their participation in the trust.

15 The income of the trust will never  
16 accrue to the benefit of anyone other than the  
17 member municipalities. Additionally, the  
18 investment income of the trust will reduce the  
19 amount of future contributions. Correct?

20 A. Correct. That's what it says, yup.

21 Q. And, again, that's in 1987?

22 A. That was -- yup. Again, that's IRS  
23 reiterating what their understanding is of how this

1 program operated.

2 Q. Thank you. I have a set of exhibits,  
3 I'm going to ask you some questions about  
4 something called integrated benefits management.

5 You were asked questions this morning  
6 about what the individual trusts were doing in  
7 1999 and 2000, and I'm going to ask you some  
8 questions about that as well.

9 The first exhibit --

10 MR. RAMSDELL: May I have  
11 Exhibit No. 3, please.

12 BY MR. RAMSDELL:

13 Q. You have 3? These are the board of  
14 trustee minute meetings for July 13, 1999 for NHMA  
15 Health Insurance Trust, is that correct?

16 A. Yes.

17 Q. And I believe you testified to this  
18 morning as well, but when I -- I look at the  
19 consultants present, the first one listed is  
20 Robert J. Lloyd, legal counsel, is that correct?

21 A. Yes.

22 Q. Now, he was not employed by NHMA,  
23 correct, he was outside counsel?

1           A.       Yes.

2           Q.       And I believe you testified this  
3 morning, he was present not only at maybe all but  
4 certainly virtually all board meetings, and many  
5 committee meetings as well, correct?

6           A.       Yes.

7           Q.       Beginning on page 2 of these minutes  
8 there's a discussion and action on joint venture  
9 recommendation regarding integrated benefits  
10 management, do you see that?

11          A.       Yes.

12          Q.       It says John explained that the board  
13 has talked about the issue of integrated benefits,  
14 and there was a presentation at an earlier LRPC  
15 meeting. LRPC, is that long range planning --

16          A.       Long range planning committee.

17          Q.       I couldn't have said it better. Cheryl  
18 Ray is here from Sedgwick, and she brought Dan  
19 Arkin who is available to answer questions. The  
20 Property Liability Trust, PLT, continues to  
21 discuss this issue with the CFNH trustees. CFNH,  
22 that's the predecessor to Primex?

23          A.       Yes.

1           Q.       There was a discussion going on at the  
2 time about some kind of a mutual or joint  
3 arrangement?

4           A.       Yes.

5           Q.       This goes on to say, the PLT trustees  
6 are preparing to go into full competition if  
7 necessary. They would like to bring added value  
8 to the local government marketplace such as an  
9 integrated benefits program.

10                    PLT has committed to strategies they  
11 hope will maintain their membership. They don't  
12 feel that the best course of action would be to  
13 develop an integrated benefits management program  
14 on their own or with another partner besides the  
15 health insurance trust. They would like a  
16 commitment from the HealthTrust to work with them  
17 to develop a program.

18                    On the second page of John's memorandum  
19 dated June 16, 1999 is a resolution that would  
20 commit the HealthTrust to formally partnering with  
21 PLT to explore integrated benefits management,  
22 which John has requested the trustees approve  
23 today. Is that correct?

1           A.       Yes.

2           Q.       Jim advised the board that he received  
3 a call from George Olson, chair of the NHMA  
4 executive committee, who indicated that the  
5 executive committee is very interested in having  
6 us participate. Dave Caron, chair of the PLT,  
7 called yesterday to formally request that we enter  
8 into a working relationship with them.

9                    What follows from that is -- I think  
10 you used the phrase robust discussion occurred --

11          A.       Yes.

12          Q.       -- among board members at different  
13 times.

14          A.       Yes.

15          Q.       And I'm not going to go through  
16 everything there, but I would ask you to take a  
17 look at the middle of the next page where it says  
18 Dan O'Neal asked what is the incentive for us to  
19 pursue this. Why should our groups drop CFNH to  
20 go with this product?

21                   John explained that we're hoping that  
22 the benefits of an integrated program will extend  
23 to the pricing of products. We have had presented

1 to us information on administrative cost savings,  
2 and we hope that they will be sufficient to  
3 attract groups. It will be voluntary for groups  
4 so they can choose to remain with two vendors or  
5 go with us. Is that correct?

6 A. That's correct.

7 Q. And that's what you were thinking at  
8 the time?

9 A. Excuse me?

10 Q. That's what the discussion was at the  
11 time?

12 A. Yes.

13 Q. And then at the very end of this on  
14 page 5 there's actually a motion made. It says  
15 that Dave Lang's motion to amend the resolution as  
16 follows. Who is Dave Lang?

17 A. He was the firefighter representative.  
18 He was vice chair of the health trustees, and he  
19 was a firefighter in Hampton.

20 Q. And the resolution that passed  
21 unanimously was that the board of trustees of NHMA  
22 HealthTrust would join with the board of trustees  
23 of NHMA PLT to support and initiate cooperative

1       efforts forthwith, including the employment of  
2       their respective available staff, consultant and  
3       financial resources to develop mutually supportive  
4       and coordinated service and program offerings to  
5       members which bring added values to members, and  
6       which enhance each and/or both the trust's  
7       competitive positions in service to the  
8       New Hampshire Local Government units or other  
9       qualified entities and their employers, is that  
10      correct?

11             A.       That's correct.

12             Q.       Let's move on.  Would you take a look  
13      at Exhibit 4, please.

14                     MR. RAMSDELL:  May I have 4, please?

15      BY MR. RAMSDELL:

16             Q.       These are the minutes of the NHMA  
17      Health Insurance Trust from October 15, 1999, so a  
18      few months after the minutes we just looked at.

19                     And, again, Robert Lloyd, your outside  
20      legal counsel was present, correct?

21             A.       Yes.

22             Q.       There's a small section in this  
23      regarding the integrated care, and if you'd turn

1 to what's page 11 of the document, 12361.

2 A. 121 -- I've got 15. Page 11? Yes,  
3 okay, I've got it.

4 Q. Okay?

5 A. Yup.

6 Q. And Dave Lang again explained the value  
7 of having these programs under the same umbrella.  
8 These integrated programs might include a health  
9 plan and workers' compensation. We have not had  
10 the opportunity to get into the detail in terms of  
11 coming back with a proposed contract. PLT  
12 trustees have met, and they are still having  
13 discussions with compensation funds.

14 You updated the board on the  
15 discussions currently going on with integrated  
16 benefits. Mr. Lang suggested doing a working  
17 group again because there was some real value in  
18 doing this, and there is an advantage from a  
19 marketing perspective.

20 Bob Wheeler, who we heard testimony  
21 about this morning, commented that we need to be  
22 prepared to move forward. Doctor Weiss suggested  
23 that the working group get together again.

1                   So this is an effort that is ongoing,  
2 correct?

3           A.       Yes.

4           Q.       I'm going to ask you to take a look at  
5 Exhibit 6.

6                   MR. RAMSDELL: May I have 6, please.

7 BY MR. RAMSDELL:

8           Q.       And I believe the title on the exhibit  
9 list is incorrect, it says it's minutes meeting,  
10 but I believe we can agree that it is a memo from  
11 the NHMA Health Trust finance committee to the  
12 NHMA Health trustees dated November 22, 1999 that  
13 discuss plan B, correct?

14          A.       Yes.

15          Q.       And plan B was the second option of the  
16 first option under the integrated benefits  
17 management, correct?

18          A.       Yes. Plan A was to try to work with  
19 CFNH. Because we had the health portion, and they  
20 had the workers' comp. portion.

21          Q.       And this very first line says that CFNH  
22 response to PLT trustees for a collaborative  
23 effort was no, and now the health trustees must

1       make a decision whether or not to participate with  
2       the PLT trustees in planning and funding their  
3       plan B.

4                   Plan B is the development of an  
5       integrated benefits management program which would  
6       have as its foundation a workers' compensation  
7       program, but which also would have the features of  
8       case management and coordination with disability  
9       with options of use of a managed care medical  
10      provider network, sick leave management, and  
11      coordination with FMLA, correct?

12           A.       Yes.

13           Q.       This wasn't a done deal at this point.  
14      You'd been talking with CFNH about the possibility  
15      of doing something collaborative, and now the  
16      boards are trying to figure out whether since CFNH  
17      said no, they want to do it themselves, is that  
18      fair?

19           A.       Yes.

20           Q.       And the recommendation appears at the  
21      end of the memo. The recommendation is, from the  
22      finance committee, is that the Health trustees  
23      authorize staff, legal counsel, actuaries and

1 consultants to take any and all necessary actions  
2 to create, seek approval of and implement by  
3 January 1, 2000 a managed workers' compensation  
4 integrated benefits management lead management  
5 program in full partnership with the NHMA PLT,  
6 correct?

7 A. Yes.

8 Q. Would you move on to Exhibit 7, please.

9 A. Excuse me. You just read the  
10 recommendation of the HealthTrust finance  
11 committee.

12 Q. I believe I did.

13 A. You read section 1.

14 Q. I believe I did.

15 A. Oh, okay. Because I noted that section  
16 2 and 3 refer to some of the things that I was  
17 maybe examined on this morning.

18 Q. May I see this? I don't actually have  
19 that.

20 A. I don't know if you know that.

21 Q. This will clarify some of the things  
22 that we talked about this morning. I didn't have  
23 this page.

1                   Can we -- the recommendations from the  
2                   finance committee Nos. 2 and 3 are that the NHMA  
3                   health trustees authorize the commitment of an  
4                   undesignated reserves of half a million dollars.

5                   And you were asked this morning, you  
6                   couldn't remember whether it was 625,000 or  
7                   500,000, correct?

8                   A.           Yes.

9                   Q.           The commitment of undesignated reserves  
10                  of half a million dollars to be held in an escrow  
11                  account with the principal and interest thereon  
12                  designated solely for the purposes of ensuring the  
13                  financial viability of the joint managed workers'  
14                  compensation integrated benefits management, lead  
15                  management program, including the payment of  
16                  expenses and claims, and that sum be returned to  
17                  undesignated reserves as the program matures, and  
18                  such return becomes feasible.

19                  So if I read that correctly, what that  
20                  recommendation actually is, is \$500,000 to go to  
21                  an escrow account, and when it becomes feasible,  
22                  the money to actually be paid back, is that right?

23                  A.           Yes.

1           Q.       The trustees further authorize the  
2           expenditure of up to \$125,000 from undesignated  
3           reserves to fund the establishment of this new  
4           program as a service of the HealthTrust and PLT  
5           just as it is a component of commercial liability  
6           offerings.

7                       And then, third, the NHMA health  
8           trustees be a full partner in the planning,  
9           oversight, management and marketing of this  
10          service offering, and by committing 50 percent of  
11          the requisite reserves and seed money, \$625,000,  
12          share under the same terms of, quote, risk and  
13          return, end quote, as the PLT. Is that correct?

14          A.       Yes.

15          Q.       Okay, thank you. And thank you. And  
16          we'll move on.

17                     MR. RAMSDELL: May I have  
18          Exhibit No. 7, please.

19 BY MR. RAMSDELL:

20          Q.       This is the board of trustees minutes  
21          for their meeting of November 23, 1999. And,  
22          again, this is NHMA Health Insurance Trust,  
23          correct?

1           A.       Yes.

2           Q.       And, again, Bob Lloyd, your outside  
3 legal counsel, is present?

4           A.       Yes.

5           Q.       And, again, there are a number of  
6 topics on here that are discussed, I'm only going  
7 to ask you about section No. 4, the integrated  
8 benefits management that we've been talking about.

9                    In there Dave Caron, the chairperson of  
10 PLT, begins by reviewing the chronology of events  
11 leading up to PLT's decision to offer a workers'  
12 comp. product as of January 1. It talks about  
13 the -- well, PLT has been providing  
14 property/liability insurance to municipalities for  
15 13 years, and CFNH has been providing workers'  
16 compensation.

17                   About a year ago CFNH sent PLT a letter  
18 expressing interest in purchasing PLT. At that  
19 time we also found out that CFNH had been planning  
20 for three years to roll out their own property and  
21 liability insurance. The PLT did their best to  
22 make an arrangement with CFNH to work together  
23 rather than have each entity offer the same

1 product.

2 Why would you do that? Why would you  
3 make an arrangement instead of having each entity  
4 offer their own product? Why would you try that?

5 A. Well, we thought it would be in the  
6 best interest of the members not to have, you know,  
7 these competing programs injuring each other. You  
8 know, and they did a very good job with worker's  
9 comp., that was their expertise.

10 THE PRESIDING OFFICER: Keep your voice  
11 up, Mr. Andrews, please.

12 THE WITNESS: They did a very good job  
13 with workers' comp., that was their expertise. No  
14 need to duplicate things.

15 BY MR. RAMSDELL:

16 Q. Then this goes on to say, in early  
17 November PLT found out that CFNH does not want to  
18 work with PLT. At a board of trustees meeting on  
19 November 3, PLT trustees voted to approve an  
20 integrated benefits plan which gives them a  
21 foothold in the future.

22 The PLT board voted to dedicate  
23 \$1 million from reserves and \$250,000 towards this

1 endeavor. PLT is requesting the HealthTrust  
2 support and hopefully financial assistance. The  
3 PLT board has a lot of confidence in NHMA staff in  
4 putting together a great product.

5 Then there's discussion about the  
6 finance committee, the report to the finance  
7 committee.

8 On the next page a number of people say  
9 their piece or voice some of their opinions on  
10 there. For example, Dave Lang stated that he  
11 would support the \$625,000 to joint venture with  
12 PLT, and we would share equally in the risk and  
13 benefits, but he feels we need to develop a  
14 standalone workers' comp. product. John B --  
15 would that be John Bohenko?

16 A. Yes.

17 Q. Okay, we heard his name this morning.  
18 So John B asked if the \$625,000 would be  
19 considered a loan. Jim W answered that the  
20 \$500,000 is a reserve, and that the \$125,000 is an  
21 expense to get the program off the ground.

22 The next paragraph Steve M asked what  
23 kind of board structure will be implemented to

1 administer the program. Dave C responded that PLT  
2 would look at the HealthTrust to be an equal  
3 partner in every respect, but the governing  
4 structure is up for discussion.

5 Dave L asked how open PLT is to not  
6 doing integrated benefits in 24 hour care. John  
7 Andrews responded there is no 24 hour care being  
8 looked at, but integrated short-term disability  
9 and long-term disability with workers' comp. and  
10 managing the workers' comp. leave process is  
11 integral to the 20 to 30 percent cost savings we  
12 expect to see.

13 A couple of paragraphs further down  
14 somebody else speaks. Gary stated that he came  
15 out of the finance committee meeting feeling that  
16 Dave's concerns could be met with the integrated  
17 benefits proposal. It was his understanding that  
18 we plan to offer plain vanilla workers' comp. for  
19 groups that wanted it. Bob Lloyd, your counsel,  
20 stated that he's on the team to design the  
21 program, and Gary is correct.

22 And ultimately at the end of this  
23 section, Keith Burke's motion to accept the

1 finance committee's recommendations to proceed,  
2 with the three recommendations contained in the  
3 plan B memo, seconded by Mark Aloy, passed by a  
4 vote of 11 to 6, correct?

5 THE PRESIDING OFFICER: Excuse me for  
6 just a moment. Are you okay?

7 MR. RAMSDELL: I'm sorry, am I speaking  
8 too fast? I really do, I apologize. I should  
9 have asked you. I'm trying to move along. But if  
10 I speak too fast, please -- I'm sorry, thanks for  
11 pointing it out.

12 May I have Exhibit 9, please?

13 THE PRESIDING OFFICER: Exhibit 9.

14 BY MR. RAMSDELL:

15 Q. John, do you have Exhibit 9 before you?  
16 This is the executive committee meeting minutes of  
17 January 20, 2000, and if you turn to page 5  
18 there's a discussion of the workers' compensation,  
19 slash, integrated benefits management program.

20 And, again, I'm not going to go through  
21 this entire discussion, but it is introduced by  
22 you, or actually you introduced Phil Stewart,  
23 claims manager of PLT, and explained that

1 Mr. Stewart had interfaced with the Department of  
2 Labor for their approval of the self-funded  
3 workers' comp. program, is that correct?

4 A. Yes.

5 Q. And Mr. Stewart then gives a report,  
6 his discussion with the Department of Labor,  
7 correct?

8 A. Yes.

9 Q. And near the end, or the very last  
10 paragraph of that discussion which appears on the  
11 next page, states that Mr. Eich asked where the  
12 cash had come from to get the ball rolling on this  
13 program, and you responded that it had been a  
14 joint venture between the PLT --

15 MR. SATURLEY: Hang on, John.

16 A. I'm looking for it.

17 Q. I apologize. It is the last paragraph  
18 just before No. 9.

19 Mr. Eich asked where the cash had come  
20 from to get the ball rolling on this program, and  
21 you responded that it had been a joint venture  
22 between the PLT and the HealthTrust with each  
23 trust putting money in escrow to support claims,

1 plus to administer the program and get it up and  
2 going.

3 You reported that not much of this  
4 money has been spent because, you explained,  
5 revenues in terms of contributions contain a  
6 percentage for administrative costs.

7 You stated that this program should be  
8 self-supporting, so they shouldn't have to tap  
9 into the security funds. You stated that the goal  
10 was to have members respond positively to coming  
11 on board.

12 Mr. Eich felt that if members  
13 understood it was a joint venture, it would be  
14 well received by communities, correct?

15 A. Yes.

16 MR. RAMSDELL: May I have Exhibit 188,  
17 please.

18 THE PRESIDING OFFICER: Exhibit 188?

19 MR. RAMSDELL: 188.

20 BY MR. RAMSDELL:

21 Q. You were asked some questions this  
22 morning about information that is sent directly to  
23 members, is that correct?

1           A.       Yes.

2           Q.       And I'm not going to go through each of  
3 your annual reports that you sent to members, but  
4 let's start with a couple of the early ones. This  
5 is the HealthTrust annual report from 2002,  
6 correct?

7           A.       Yes.

8           Q.       Would you turn to page 5 on that  
9 report, please. I'm sorry, that's not page 5 of  
10 the report itself. It may be the fifth page --  
11 it's one numbered 5.

12          A.       Yes, I've got it.

13          Q.       The page number is 16030. The  
14 next-to-last paragraph on this page reports to the  
15 members that HealthTrust and the New Hampshire  
16 Municipal Association Property/Liability Trust  
17 jointly began the workers' compensation program in  
18 2000.

19                   The workers' compensation program  
20 operates under the direction of a committee whose  
21 members come from both HealthTrust trustees and  
22 New Hampshire Municipal Association PLT trustees,  
23 correct?

1           A.       Correct.

2           Q.       The workers' compensation program  
3 provides workers' compensation coverage to  
4 political subdivisions of the state of  
5 New Hampshire and their instrumentalities as  
6 provided for under New Hampshire RSA 5-B, correct?

7           A.       Correct.

8           Q.       Would you turn to page 7 of the report,  
9 please. This is part of the operating results  
10 discussion, and at the very first paragraph it  
11 states that HealthTrust's investment in the Local  
12 Government Center increased \$2,655,794. The  
13 increase in the investment in the Local Government  
14 Center is to participate in funding its expansion,  
15 correct? That's a report made to the members?

16          A.       Correct.

17          Q.       I ask you to turn to page 9, please.  
18 In the discussion about major accounting policies,  
19 in this annual statement to the members you say  
20 that for some time HealthTrust trustees along with  
21 staff and the actuarial consultant have debated  
22 the appropriate level of members' balance, and  
23 appropriate level of members' balance --

1           A.       Excuse me. I'm just looking for where  
2 that is.

3           Q.       I'm sorry.

4           A.       That's all right.

5           Q.       It's the very last paragraph on that  
6 page.

7           A.       Okay, yup. For some time. I see it,  
8 yup.

9           Q.       For some time HealthTrust trustees  
10 along with staff and the actuarial consultant have  
11 debated the appropriate level of members' balance.  
12 An appropriate level of members' balance helps  
13 protect members from the risk that rates would be  
14 insufficient to meet claims during times of  
15 unpredicted high claims. Historically  
16 HealthTrust's goal was to have a members' balance  
17 that is 20 percent of claims.

18                    You remember being asked questions  
19 about the goals and targets and RBC this morning?

20           A.       Yes.

21           Q.       And this statement clarifies that  
22 information, correct? It goes on to say, however,  
23 since the rationale --

1 THE PRESIDING OFFICER: Excuse me, we  
2 need to get an answer.

3 MR. RAMSDELL: I thought he said yes.  
4 I apologize.

5 A. Yes.

6 BY MR. RAMSDELL:

7 Q. However, since the rationale for this  
8 goal has dissipated, the trustees desire to be  
9 more concrete, industry standard measurement for  
10 determining the appropriate level of members'  
11 balance.

12 The next paragraph at the top of the  
13 page just talks about what the National  
14 Association of Insurance Commissioners is. And  
15 the following paragraph says, after studying this  
16 matter and under the advice of the consulting  
17 actuary, trustees established a members' balance  
18 risk based capital ratio of 4.2. At the present  
19 time HealthTrust's RBC stands at approximately  
20 2.1.

21 During CY 2003 HealthTrust is acquiring  
22 the software to precisely measure its RBC on an  
23 ongoing basis. The ratio of 4.2 was selected

1 after reviewing the level other health insurers  
2 maintained, the level used by the Blue Cross and  
3 Blue Shield National Association, as well as the  
4 RBC level of health insurers with similar asset  
5 levels to HealthTrust.

6 After selecting 4.2 RBC ratio,  
7 HealthTrust trustees determined the best way to  
8 reach this level is to gradually add funds to  
9 members' balance. This decision means that during  
10 each rating action trustees will consider a charge  
11 in the rates to obtain the 4.2 ratio goal.

12 Correct?

13 A. Correct.

14 Q. And this is the annual statement sent  
15 directly to HealthTrust members, correct?

16 A. Yes. I might add --

17 Q. No question pending.

18 A. Okay.

19 Q. Would you turn to just before the  
20 conclusion, it's page 14, or 616039.

21 A. I have it.

22 Q. Okay. Just before the section starts  
23 with the large E it states that HealthTrust

1 trustees were well aware of the space problems  
2 presented by the expanded staff and increased  
3 utilization of the meeting space at the LGC.

4 In 2002, along with other LGC owners,  
5 HealthTrust committed \$2.5 million to fund a  
6 29,000 square foot expansion of these facilities.  
7 The estimated total land acquisition and  
8 construction cost is \$3.2 million.

9 Construction is scheduled to begin in  
10 the spring of 2003, with completion in late  
11 September 2003. The increased space will provide  
12 for more meaningful staff interrelations and  
13 increased meeting space for members served by  
14 HealthTrust, correct?

15 A. Yes.

16 Q. And the last thing I'm going to ask you  
17 about this trust statement, if you can turn to  
18 page 16051. It's the notes to the financial  
19 statements. With me? John?

20 A. Yes.

21 Q. Got it?

22 A. Yes.

23 Q. Okay. The second paragraph here states

1       that HealthTrust provided assets to the  
2       New Hampshire Municipal Association PLT to fund  
3       capitalization requirements and start-up costs for  
4       a workers' compensation pool.  Repayment is  
5       dependent on the trust's future financial  
6       performance, correct?

7             A.       Yes.

8             Q.       Can we move on to Exhibit 190, please.  
9       190, please.  Fewer questions as we go along, as I  
10       promise.

11            THE PRESIDING OFFICER:  I'm sorry, did  
12       you say fewer readings or fewer questions?

13            MR. RAMSDELL:  I get those confused,  
14       apparently.

15            THE PRESIDING OFFICER:  Just keep the  
16       stenographer in mind as we move towards the end of  
17       the day.

18            MR. RAMSDELL:  I do.  I won't do that  
19       again, I promise.  Kind of.  I promise to intend  
20       not to.

21       BY MR. RAMSDELL:

22            Q.       This is the PLT annual report for 2003,  
23       correct?

1           A.       Yes.

2           Q.       Okay, and would you turn with me to  
3 16216.

4           A.       I have it.

5           Q.       And that commences with PLT and  
6 HealthTrust jointly began a workers' compensation  
7 program in 2000.  Until July 1, 2003 the workers'  
8 compensation program operated under the direction  
9 of a committee whose members come from both NHMA  
10 PLT trustees and HealthTrust trustees.

11                   As of July 1, 2003 the workers'  
12 compensation program separated from the PLT to  
13 form its own Local Government Center Workers'  
14 Compensation Trust, LLC, and is governed by the  
15 Local Government Center board of directors.  
16 Correct?

17          A.       Yes.

18          Q.       I'm going to ask you to turn to page  
19 16238, the notes to financial statements.

20          A.       Yes.

21          Q.       There you're disclosing a subsequent  
22 event to the PLT members.  It states that on July  
23 1, 2003 the board of trustees and the executive

1 committee of the New Hampshire Municipal  
2 Association PLT approved a reorganizational plan  
3 which merged the assets, liabilities and business  
4 of the New Hampshire Municipal Association PLT  
5 into two separate, newly formed limited liability  
6 companies.

7 The workers' compensation program and  
8 the associated assets and liabilities were  
9 transferred to Local Government Center Workers'  
10 Comp. Trust, LLC. The property and liability  
11 program and associated assets and liabilities were  
12 transferred to the LGC PLT Trust, LLC, a new  
13 entity. Both entities are wholly owned by the  
14 Local Government Center, Inc.

15 As part of this reorganizational plan,  
16 New Hampshire Municipal Association PLT  
17 distributed to Local Government Center its 25.2  
18 percent ownership in LGC Real Estate, Inc., which  
19 had been accounted for as other investment,  
20 correct?

21 A. Yes.

22 MR. RAMSDELL: It's a section that's  
23 got some time attached to, but I don't want to

1 break too early.

2 THE PRESIDING OFFICER: I'm not looking  
3 for a break, Mr. Ramsdell, I'm just wondering if  
4 there was a way that we can treat some of these  
5 without the mere reading. I understood you wanted  
6 them to come to light, but I thought perhaps we  
7 were going to get something from the witness. Is  
8 there any way that we can do this? If not, just  
9 tell me no.

10 MR. RAMSDELL: I will ask him some  
11 questions about some of these things. The ones  
12 I've gone through so far are most just filings,  
13 they're more discussions.

14 THE PRESIDING OFFICER: Don't race.

15 MR. RAMSDELL: And I appreciate your  
16 asking. I just think it would move faster if I do  
17 most of the reading, frankly, and that's the  
18 import of the discussion.

19 THE PRESIDING OFFICER: I understand.  
20 The record can be as large as you want it to be.

21 MR. RAMSDELL: Thank you.

22 BY MR. RAMSDELL:

23 Q. I'm going to ask you to look at some of

1 the board minutes regarding the reorganization  
2 that you were asked about this morning.

3 MR. RAMSDELL: May I have Exhibit 366,  
4 please.

5 THE PRESIDING OFFICER: 366.

6 MR. RAMSDELL: 366.

7 THE PRESIDING OFFICER: Every time you  
8 walk away from the mike, we don't get the sound.  
9 But it's okay, Mr. Ramsdell, I understand.

10 MR. RAMSDELL: I'm going to move to  
11 strike the identification off those first few  
12 exhibits. The 5-B ones that I asked him about.  
13 I'll get the numbers if you want. If we can take  
14 a break instead of taking up the time, we could do  
15 that at the end --

16 THE PRESIDING OFFICER: Why don't we  
17 take a break.

18 MR. RAMSDELL: What's that?

19 THE PRESIDING OFFICER: We'll take a  
20 three-minute break to get organized.

21 (Recess taken.)

22 THE PRESIDING OFFICER: All right,  
23 ladies and gentlemen, after having completed a

1       brief recess and doing some logistics with respect  
2       to exhibits, we will pick up where you left off.  
3       Mr. Ramsdell, you have a question?

4                 MR. RAMSDELL: We're moving to strike  
5       the identification for LGC Exhibits 273, 323 and  
6       324. They were the legislative history and the  
7       two 5-B filings relating to the original -- the  
8       legislative testimony regarding the original  
9       passage of 5-B, and then New Hampshire Insurance  
10      School Boards' two 5-B filings after the passage  
11      of the legislation.

12                THE PRESIDING OFFICER: Those are all  
13      contained in those numbered exhibits?

14                MR. RAMSDELL: That's correct.

15                THE PRESIDING OFFICER: Okay, and I  
16      note that they were in the conditional list this  
17      morning. Mr. Volinsky.

18                MR. VOLINSKY: I think 273 is the IRS  
19      letter. But, regardless, our position is that the  
20      hearing officer can assign appropriate weight, and  
21      so we'll just withdraw the objection and allow  
22      them to be full, but you'll have to figure out the  
23      missing number.

1 THE PRESIDING OFFICER: These three you  
2 withdraw. The others that are in that range, 307  
3 to 333, we'll just handle as we progress forward?

4 MR. VOLINSKY: If I can have one  
5 second, I can probably respond to that.

6 THE PRESIDING OFFICER: Okay.

7 MR. VOLINSKY: Same approach.

8 MR. TILSLEY: Through 331.

9 MR. VOLINSKY: Now that we understand  
10 the point, we'll just leave you to assign weight.

11 THE PRESIDING OFFICER: And, again,  
12 could you give me the number?

13 MR. TILSLEY: 307 to 331, which are all  
14 5-B filings for other entities, we'll strike the  
15 ID.

16 THE PRESIDING OFFICER: Okay. Okay,  
17 stricken and are, or will be, admitted.

18 (LGC Exhibits 307-331 were admitted into evidence.)

19 THE PRESIDING OFFICER: With respect to  
20 the issue that we're on now, 273, 323 and 324 were  
21 the exhibits numbers mentioned, but Mr. Ramsdell,  
22 we have some modification?

23 MR. RAMSDELL: I'm missing one number.

1 I'll find it right now if you'd like, or take some  
2 testimony and wait for the end of the day.

3 THE PRESIDING OFFICER: Take some  
4 testimony and do admissions and strikes at the end  
5 of the day. Mr. Volinsky, keeping that in mind,  
6 if you have a particular objection, by all means  
7 bring it to me right away; otherwise we'll take  
8 care of that housekeeping at the end of the day.

9 MR. RAMSDELL: Thank you.

10 THE PRESIDING OFFICER: All right,  
11 please proceed.

12 MR. RAMSDELL: May I have Exhibit 20,  
13 please.

14 BY MR. RAMSDELL:

15 Q. Mr. Andrews, you were asked a lot of  
16 questions about the reorganization that took place  
17 in 2003, and so I'm going to ask you -- and you  
18 were shown selected board minutes meetings and  
19 asked about certain comments. I'm going to show  
20 you a number of them that led up to and ultimately  
21 became that decision.

22 So I'm going to start with  
23 Exhibit No. 20, which is the NHMA Health Insurance

1 Trust board of trustees retreat July 14, 2001.

2 A. My birthday.

3 Q. I beg your pardon?

4 A. My birthday.

5 Q. Congratulations.

6 A. I remember it well.

7 Q. You talked about at retreats, annual  
8 retreats, discussions about consolidation, or  
9 later the strategic plan taking place, and there  
10 are quite a few comments in the minutes here. I'm  
11 going to ask you about a few beginning at page 3.  
12 A little more than halfway down the page I believe  
13 the discussion about consolidation starts where  
14 Doctor Weiss noted that Bob Lloyd would be  
15 speaking about the consolidation of the trusts.  
16 Are you with me?

17 A. Page 3. Doctor Weiss stated that the  
18 board --

19 Q. Next paragraph down.

20 A. Doctor Weiss queried?

21 Q. Right.

22 A. If there were any --

23 Q. -- questions on the audit recap, there

1        were no questions, so he noted that Bob Lloyd  
2        would be speaking about the consolidation of the  
3        trusts?

4            A.        Yes.

5            Q.        And then the discussion begins with  
6        your outside counsel distributing a discussion  
7        document noting that the purpose of today's  
8        discussion is to relate a list of criteria that  
9        needs to be considered if such an avenue is  
10       undertaken.

11                    Bob stated that the consolidation of  
12       the trust was noted on the strategic plan from  
13       last year; however, it was a low priority. Staff  
14       work on this has probably been in the area of only  
15       20 hours.

16                    Now, let me stop there. Because those  
17       words strategic plan from last year appear in  
18       here. You were asked a number of questions this  
19       morning about a strategic plan, part of which was  
20       providing money to workers' compensation.

21                    This is 2001, and a health insurance  
22       trust retreat. The words strategic plan appear  
23       here. Would that be the same strategic plan you

1 were asked about this morning?

2 A. No, because this is -- this is three  
3 years before.

4 Q. Strategic plan is nomenclature that  
5 NHMA used historically for plans that were to go  
6 forward over a period of years, is that correct?

7 A. Yes.

8 Q. Okay. Bob stated that he has worked on  
9 this with Dave Law and Wendy Parker, issues have  
10 been placed in categories with positive and  
11 negative aspects noted. Bob advised that the  
12 Primex issue may need to be considered separately.

13 Bob reviewed the distributed document  
14 with the trustees. It was stated if consolidation  
15 should be considered by the HealthTrust, a  
16 proposal should be developed for future review and  
17 discussion.

18 Now, back at the retreat in 2001, was  
19 there a plan or determination made to consolidate  
20 the entities at that point?

21 A. We may have -- there was no plan to do  
22 that. We may have mentioned it, and that was  
23 something that, you know, as he states took a low

1 priority.

2 Q. This is just when you started kicking  
3 the idea around?

4 A. Yes.

5 Q. On the next page, Paul --

6 A. Excuse me, next paragraph says this  
7 appeared to be a good idea, but they put it on  
8 hold.

9 THE PRESIDING OFFICER: Thank you for  
10 being helpful, Mr. Andrews. Be helpful and keep  
11 your voice up, please. We're trying to record  
12 this.

13 BY MR. RAMSDELL:

14 Q. On the first paragraph, the next page,  
15 Paul Beecher indicated that an alliance is more  
16 necessary than a merger. Paul stated that if --

17 THE PRESIDING OFFICER: Time out.

18 A. No, what I've got on the next page is  
19 blank.

20 Q. Oh, great.

21 A. Maybe it's in this document here.

22 THE PRESIDING OFFICER: We're off the  
23 record right now.

1 (Discussion off the record.)

2 MR. RAMSDELL: One of the two copies  
3 didn't come out, that's all.

4 THE PRESIDING OFFICER: Please proceed.

5 BY MR. RAMSDELL:

6 Q. Paul Beecher indicated that an alliance  
7 is more necessary than a merger. Paul stated that  
8 if consolidation will give to the HealthTrust  
9 something better than now exists if investments  
10 would be enhanced and the impact was very  
11 positive, it should be considered.

12 Marylin Peterman queried that if the  
13 two entities can work together without a merger  
14 being necessary. John Andrews suggested having a  
15 discussion with PLT. Maybe it would be determined  
16 that this would be a positive business decision.  
17 John stated that maybe this should be considered  
18 before this is a crisis.

19 You go on to say in the next paragraph  
20 that it's your desire to share the consolidation  
21 information that has been presented today with PLT  
22 and then file it away for six to eight months.

23 You indicated that it is not your

1 belief that PLT would be opposed to a merger.  
2 Their business already is threatened, and the  
3 HealthTrust may also be in the future.

4 MR. SATURLEY: It's not projecting.

5 MR. RAMSDELL: What's not projecting?

6 MR. SATURLEY: What you just read.

7 MR. RAMSDELL: But you have the exhibit  
8 there, right?

9 THE PRESIDING OFFICER: No.

10 MR. RAMSDELL: I didn't realize yours  
11 was blank.

12 THE PRESIDING OFFICER: We'll take care  
13 of it at the end of the day. Please proceed.

14 BY MR. RAMSDELL:

15 Q. Dave Lang makes a motion to send a copy  
16 of the document merger restructuring consideration  
17 to the chair of PLT, place it on file and enter it  
18 on the agenda in January for further discussion,  
19 seconded by Steve Moultonberry, and it passed  
20 unanimously, correct?

21 A. Correct.

22 Q. So this is a discussion that begins in  
23 the summer of 2001 and it's tabled for a number of

1 months, correct?

2 A. Yes.

3 Q. And a number of board members  
4 participated in this discussion, even at this  
5 early stage, correct?

6 A. Yes.

7 Q. And there wasn't unanimity of thought,  
8 was there?

9 A. No.

10 MR. RAMSDELL: May I have Exhibit 30,  
11 please.

12 BY MR. RAMSDELL:

13 Q. Now, this is a year later, the  
14 HealthTrust board of trustees retreat July 12,  
15 2002. And, again, Bob Lloyd, your legal counsel,  
16 is present, and which you note that it to be --  
17 the middle of the page, the discussion starts,  
18 there's a facilitated discussion, who is  
19 HealthTrust today, who is the current and future  
20 competition, what do members want, expect of  
21 HealthTrust in the future, correct?

22 A. Yes.

23 Q. And what follows is a discussion that

1 goes on for a number of pages, each of the  
2 questions are underlined in the document; who are  
3 HealthTrust customers, why do customers buy from  
4 HealthTrust, why do some potential customers not  
5 buy, those types of questions, correct?

6 A. That's correct.

7 Q. And there are --

8 A. And this was a presentation by our  
9 consultant.

10 Q. And why did you have a consultant  
11 present to do a presentation?

12 A. Because the consultant on board with,  
13 you know, the long range planning committee and  
14 that, this fellow, Michael Bailit, was a continuing  
15 consultant much like a predecessor Al Jones was.  
16 He was somebody that we found that, you know, who  
17 knew something about the --

18 THE PRESIDING OFFICER: Mr. Andrews --

19 A. -- that knew about the health  
20 industry --

21 MR. RAMSDELL: John, hold on a second.

22 A. -- and understood the New Hampshire --

23 THE PRESIDING OFFICER: Your good

1 testimony is all being lost on us because we're  
2 having difficulty picking it up. So a few more  
3 minutes, but keep it loud. Thank you.

4 THE WITNESS: I'm just going to repeat  
5 what I just said if the stenographer missed it.  
6 Go ahead, I'll stop.

7 BY MR. RAMSDELL:

8 Q. No, let me ask you again, John. You  
9 said it's facilitated by a consultant. Why do you  
10 have a consultant present facilitating the  
11 discussion?

12 A. Because he was an expert on the health  
13 marketplace in New Hampshire at the time of -- you  
14 know, he had done some studies for us, you know,  
15 that he'd brought to this discussion.

16 Q. Now, during this discussion, part of  
17 the discussion has to do with Primex being a  
18 threat to HealthTrust, isn't that correct?

19 A. Yes.

20 Q. And it's only part of the discussion,  
21 correct?

22 A. Yes.

23 Q. I want to move to near the end of the

1 discussion, if we can go to page 8070.

2 A. Oh, okay.

3 Q. The paragraph that starts with Keith  
4 Burke advised.

5 A. Yes.

6 Q. Because this is where the motion comes  
7 in at the time. Keith Burke advised that some  
8 long-term strategies need to be addressed. It is  
9 necessary to look at the entire organization,  
10 NHMA, PLT, and HealthTrust. Maybe we should  
11 restructure the whole organization.

12 I would like to propose that two people  
13 from each entity be appointed to be on a working  
14 committee to work together and still keep  
15 HealthTrust's mission in focus.

16 Bob Wheeler's motion to authorize Keith  
17 Burke, chair of HealthTrust board of trustees, to  
18 appoint two members of the HealthTrust board of  
19 trustees to a working committee with NHMA and PLT  
20 was seconded by April Whittaker, and it passed  
21 unanimously, correct?

22 A. Yes.

23 Q. And then Burke said he would appoint

1 two representatives over the next few weeks, and  
2 he stated the goal. The goal is to look at the  
3 entire organization and consider reorganization.  
4 Maybe it will stay the same, but I think we should  
5 look at it. It seems that some services can be  
6 delivered by one entity better than another.

7 We talked about the different things we  
8 want to do, they all touch on the other entities.  
9 I think we should talk about the action steps for  
10 2003 and beyond. Correct?

11 A. Yes.

12 Q. Now, John, here we are in the summer of  
13 2002, all right? This doesn't have anything to do  
14 with the document, okay? It looks like at the  
15 time the board -- this is being introduced; no  
16 decision has been made, is that fair?

17 A. That's correct.

18 Q. And over the next year, year and a  
19 half, until the consolidation takes place, is  
20 there going to be a fair amount of, as you called  
21 it, robust discussion about -- among the board of  
22 directors?

23 A. Yes. Of all of the boards.

1 Q. When you say all the boards --

2 A. Yeah.

3 Q. -- how many boards were there at the  
4 time?

5 A. There were -- there were three. There  
6 was property/liability, health, and the  
7 New Hampshire Municipal Association board.

8 Q. And we're going to look at the minutes  
9 of the different board meetings of the individual  
10 boards tomorrow, but I think this is probably a  
11 good place to stop, if I may.

12 THE PRESIDING OFFICER: Mr. Volinsky?

13 THE WITNESS: Tomorrow or Friday?

14 THE PRESIDING OFFICER: Counsel? Very  
15 good, then we'll break for today, and we'll be  
16 here tomorrow at 9 a.m. Mr. Andrews will continue  
17 on the stand, is that correct?

18 MR. RAMSDELL: Is that the plan? Or do  
19 you want to -- can we have just a few minutes?

20 THE PRESIDING OFFICER: I don't have to  
21 say it. We'll just say that we'll meet here  
22 tomorrow at nine o'clock to begin again, and, of  
23 course, we have lots of housekeeping to do. So

1           we're done. Thank you.

2                           (Whereupon at 4:26 p.m. the  
3                           proceedings were recessed,  
4                           to reconvene on Thursday,  
5                           May 3, at 9:00 a.m.)

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## 1 C E R T I F I C A T E

2 I, Pamela J. Carle, Licensed Shorthand Reporter,  
3 Registered Professional Reporter, and Certified  
4 Realtime Reporter, do hereby certify that I reported  
5 in machine shorthand the proceedings had at the  
6 taking of the above-entitled hearing, held on the 2nd  
7 day of May 2012, and that the foregoing is a true,  
8 complete, and accurate transcript of said proceedings  
9 as appears from my stenographic notes so taken to the  
10 best of my ability, and transcribed under my personal  
11 direction.

12 I further certify that I am a disinterested person  
13 in the event or outcome of this cause of action.

14 THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES  
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18 IN WITNESS WHEREOF, I subscribe my hand and affix  
19 my Certified Shorthand Reporter seal this 15th day of  
20 May, 2012.

21

22

23

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PAMELA J. CARLE, LCR, RPR, CRR